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U.S. GOVERNMENT
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FEDERAL REGISTER

Vol. 88 Friday,

No. 188 September 29, 2023

Pages 67055–67616

OFFICE OF THE FEDERAL REGISTER

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

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Rules and Regulations

Federal Register
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Friday, September 29, 2023

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

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

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Organization and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Interim final rule; request for comments.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is launching an updated electronic filing (e-filing) system, e-Appeal, on October 2, 2023, in support of MSPB's agency-wide initiative to modernize its technology, gain new efficiencies, and improve the e-filing experience for our external users. MSPB hereby amends its rules of practice and procedure to require all pleadings filed by agencies and attorneys who represent appellants in MSPB proceedings to be electronically filed (e-filed). This requirement will apply to all pleadings in all adjudicatory proceedings before the Board except those specifically excluded by this interim final rule.

DATES: This interim final rule is effective October 2, 2023. Submit written comments concerning this interim final rule on or before December 31, 2023.

ADDRESSES: Submit comments by using only one of the following methods:

Email: mspb@mspb.gov. Include ''Amendments to E-filing Regulations'' in the subject line of the email.

Fax: (202) 653–7130.

Mail or other commercial delivery: Jennifer Everling, Acting Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419.

Instructions: All comments must reference ''Amendments to E-filing Regulations.'' 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: Jennifer Everling, Acting Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419; phone: (202) 653–7200; fax: (202) 653–7130; email: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 2008, MSPB issued final regulations at 5 CFR parts 1201, 1203, 1208, and 1209 governing e-filing. 73 FR 10127. Under those regulations, virtually any type of pleading could be filed electronically via MSPB's e-filing application. In the February 26, 2008 **Federal Register** notice, MSPB announced that it was giving serious consideration to mandating e-filing for agencies and attorneys who represent appellants in MSPB proceedings. 73 FR 10127–28.

On October 13, 2011, MSPB issued an interim final rule, with request for comments, launching a pilot program under which the Washington Regional Office (WRO) and Denver Field Office (DEFO) required all pleadings filed by agencies and attorneys who represent appellants in MSPB proceedings to be e-filed. In the October 13, 2011 **Federal Register** notice, MSPB noted that should the pilot program in WRO and DEFO prove to be successful, the Board would consider proposing a final comprehensive rule that would make e-filing mandatory for agencies and attorneys who represent appellants. Since the launch of the pilot program, the proportion of pleadings e-filed has steadily increased. In fiscal year 2022, 85% of initial appeals and 95% of pleadings were filed electronically using MSPB's e-filing application.

On October 2, 2023, MSPB will launch an updated e-filing system, e-Appeal. The extensive capabilities of MSPB's current e-filing application that allow appellants, their representatives, and agencies to e-file an appeal and pleadings and view case records will still be available in the new, modernized e-Appeal system. Additionally, in the new e-Appeal, parties and their representatives will have access to a dashboard that allows management of all their Board cases and case materials in one place, providing new efficiencies for our customers. Although MSPB's current e-filing application has been valuable to both MSPB and its customers, some benefits can only be fully realized by maximizing the number of pleadings that are e-filed. By requiring e-filing for agencies and attorneys who represent appellants, MSPB can improve efficiency in adjudication and reduce costs associated with the need to scan pleadings that are submitted in paper form.

Finally, while these amendments are being issued immediately as interim final rules, the Board still requests that all stakeholders or other interested individuals provide their views on the amendments. The Board will thoroughly consider all input and respond to all comments as necessary.

II. Summary of Changes

Set forth below is a summary of amendments being implemented by MSPB.

Part 1201—Practices and Procedures

Subpart B—Procedures for Appellate Cases

Section 1201.14 Electronic Filing Procedures

This amendment modifies the procedures related to e-filing with the Board to require agency representatives and appellant attorney representatives to register as e-filers with MSPB and to file all pleadings using MSPB's e-Appeal. The amendment further modifies the scope of registration as an e-filer to now include all cases a party has with MSPB, and the requirements for what may be included with electronic pleadings in Board appeals. The amendment adds the requirement for agencies to designate an individual agency representative to whom the Board will serve a copy of an appeal when it is docketed.

Section 1201.24 Content of an Appeal; Right to Hearing

This amendment modifies the requirements for the information contained in an appeal to include the email address of the appellant and the appellant's representative, if any. Because free email addresses are widely available, requiring an email address should not be an undue burden on appellants or appellant non-attorney representatives who do not register as e-filers. The amendment further removes

references to the direct link to MSPB's e-Appeal, which can be accessed directly from MSPB's website.

Section 1201.26 Service of Pleadings and Response

This amendment removes the requirement for the appellant to file two copies of the appeal with the Board and modifies the formatting requirements for pleadings filed via postal mail, facsimile, or commercial or personal delivery in Board appeals. This amendment further adds the requirements for how audio and video evidence may be submitted to the Board.

Appendix II to Part 1201—Appropriate Regional or Field Office for Filing Appeals

This amendment reflects the change to the contact information of the Board's New York Field Office. Appendix II of this part is amended to show the new address and facsimile number. The geographical areas served by the New York Field Office are unchanged. This amendment also removes obsolete language regarding text-based telecommunications capabilities of the facsimile numbers for the Board's Regional and Field Offices.

III. Effective Date of Amendments

The amendments described above will go into effect on October 2, 2023.

IV. Procedural Requirements

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b), MSPB has determined that good cause exists for waiving the general notice of proposed rulemaking and public comment procedures as to these technical amendments. The notice and comment requirements of section 553(b) do not apply to interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice. The Board finds that use of an interim final rule instead of notice and comment rulemaking is appropriate here because the amendments contained herein apply solely to the Board's rules of agency organization, procedure, or practice. All of the amendments solely address how appeals proceed at the Board, and do not affect any substantive rights of parties before the Board or interested stakeholders. No substantive changes in existing law or policy are effected from these amendments. Under these circumstances, notice and comment rulemaking is unnecessary and not required by any public interest.

B. Regulatory Impact Analysis: Executive Order 12866

MSPB has determined that this is not a significant regulatory action under E.O. 12866. Therefore, no regulatory impact analysis is required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As discussed above, notice and comment rulemaking is unnecessary for these changes due to the lack of substantive changes being made to existing law or policy. Thus, the RFA does not apply to this final rule.

D. Paperwork Reduction Act

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. Chapter 35).

E. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801, *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure.

Accordingly, for the reasons set forth above, 5 CFR part 1201 is amended as follows:

PART 1201—PRACTICES AND PROCEDURES [AMENDED]

■ 1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204, 1305, and 7701, and 38 U.S.C. 4331, unless otherwise noted.

■ 2. Section 1201.14 is revised to read as follows:

§ 1201.14 Electronic filing procedures

(a) *General.* This section prescribes the rules and procedures by which parties and representatives to proceedings within the MSPB's appellate and original jurisdiction may file and receive documents electronically.

(b) *System for electronic filing.* (1) The MSPB's e-Appeal system is the exclusive system for electronic filing (e-filing) with the MSPB. Except as specifically provided, the MSPB will not accept pleadings filed by email. The link to e-Appeal is available at the MSPB's website (*https://www.mspb.gov*).

(2) e-Appeal is a closed system that collects and maintains records as part of an MSPB system of records and is subject to the provisions of the Privacy Act of 1974. Access to cases in e-Appeal is limited to the parties participating in a Board proceeding who have registered as e-filers with the MSPB, and authorized individuals providing legal support to designated representatives.

(c) *Matters subject to electronic filing.* Subject to the registration requirement of paragraph (e) of this section, parties and representatives may use e-filing to do any of the following:

(1) File any pleading, including a new appeal, in any matter within the MSPB's appellate jurisdiction (§ 1201.3);

(2) File any pleading, including a new complaint, in any matter within the MSPB's original jurisdiction (§ 1201.2);

(3) File a petition for enforcement of a final MSPB decision (§ 1201.182);

(4) File a request for attorney fees (§ 1201.203);

(5) File a request for compensatory, consequential, or liquidated damages (§ 1201.204);

(6) Designate a representative, revoke such a designation, or change such a designation (§ 1201.31);

(7) Notify the MSPB of a change in contact information such as address (geographic or email) or telephone number; or

(8) Receive a requested subpoena from the Board for issuance to a witness (§ 1201.83).

(d) *Matters excluded from e-filing.* E-filing may not be used to:

(1) File a request to hear a case as a class appeal or any opposition thereto (§ 1201.27);

(2) Serve a subpoena on a witness (§ 1201.83);

(3) File a pleading with the Special Panel (§ 1201.137);

(4) File a pleading that contains Sensitive Security Information (SSI) (49 CFR parts 15 and 1520);

(5) File a pleading that contains classified information (32 CFR part 2001); or

(6) File a request to intervene or participate as an *amicus curiae* or file a brief as amicus curiae pursuant to § 1201.34.

(e) Registration as an e-filer.

(1) The exclusive means to register as an e-filer is to follow the instructions at e-Appeal using a unique email address.

(2) Registration as an e-filer constitutes consent to accept electronic service of pleadings filed by other e-

filers and documents issued by the MSPB. No one may electronically file a new appeal or a pleading with the MSPB, or view the case record in an assigned appeal, unless registered as an e-filer.

(3) Registration as an e-filer applies to all MSPB proceedings with which the e-filer is associated in their e-Appeal role (appellant, appellant representative, or agency representative). If an individual requires more than one e-Appeal role (*e.g.,* appellant and appellant representative), they must register for each role separately using a different email address.

(4) All notices, orders, decisions, and other documents issued by the MSPB, as well as all pleadings filed by parties, will be made available for viewing and downloading at e-Appeal. Access to documents at e-Appeal is limited to the parties and representatives who are registered e-filers in the appeals in which they were filed.

(5) Agency representatives and appellant attorney representatives must register as e-filers.

(6) Each e-filer must promptly update their e-Appeal profile and notify the MSPB and other participants of any change in their address, telephone number, or email address by filing a pleading in each pending proceeding with which they are associated.

(7) An appellant or an appellant non-attorney representative may withdraw their registration as an e-filer pursuant to requirements set forth in e-Appeal policies posted to the MSPB's website. Such withdrawal means that, effective upon the MSPB's processing of a proper withdrawal, pleadings and MSPB documents will no longer be served on that person electronically and that person will no longer have electronic access to their case records through e-Appeal. A withdrawal of registration as an e-filer may preclude future re-registering as an e-filer.

(f) *Pleadings by e-filers.* Agency representatives and appellant attorney representatives must file all pleadings using e-Appeal, except those pleadings excluded from e-filing by paragraph (d) of this section. A pleading, or any part thereof, filed by non-electronic means, *i.e.,* via postal mail, facsimile, or personal or commercial delivery, may be rejected.

(g) *Agency Initial Contacts.* (1) Agencies are required to designate a specific individual as an initial agency representative to whom the Board will serve a copy of an appeal when it is docketed. Agency initial contacts are responsible for monitoring case activity regularly at e-Appeal.

(2) Agency initial contacts must be designated pursuant to requirements set forth in e-Appeal policies posted to the MSPB's website.

(h) *Form of electronic pleadings*—(1) *Electronic formats allowed.* E-Appeal accepts numerous electronic formats, including word-processing and spreadsheet formats, Portable Document Format (PDF), and image files (files created by scanning). A list of formats allowed is set forth in e-Appeal policies posted to the MSPB's website. Pleadings filed via e-Appeal must be formatted so that they will print on 8½-inch by 11-inch paper in portrait orientation. Parties are responsible for reviewing all pleadings to confirm legibility and to minimize the inclusion of nonrelevant personally identifiable information.

(2) *Requirements for pleadings with electronic attachments.* An e-filer who uploads supporting documents, in addition to the document that constitutes the primary pleading, must identify each attachment, either by bookmarking the document using e-Appeal, or by uploading the supporting documents in the form of one or more PDF files in which each attachment is bookmarked. Bookmark names must comply with requirements set forth in e-Appeal policies posted to the MSPB's website and include information such as a brief descriptive label with dates (*e.g.,* ''Oct. 1, 2021—Decision Notice'').

(3) *Submission of audio and video evidence.* Audio and video evidence must be submitted according to the formatting and submission requirements set forth in e-Appeal policies posted to the MSPB's website.

(i) *Service of electronic pleadings and MSPB documents.* (1) When MSPB documents are issued or when parties e-file any pleadings, e-Appeal will send an email notification to other parties who are e-filers. When using e-Appeal to file a pleading, e-filers will be notified of all documents that must be served by non-electronic means, and they must certify that they will serve all such documents no later than the first business day after the electronic submission.

(2) Delivery of email can encounter failure points. E-filers are responsible for ensuring that email from *mspb.gov* is not blocked by filters.

(3) E-filers are responsible for monitoring case activity regularly at e-Appeal to ensure that they have received all case-related documents.

(j) *Documents requiring a signature.* Electronic documents filed by an e-filer pursuant to this section shall be deemed to be signed by the e-filer for purposes of any regulation in part 1201, 1203, 1208, or 1209 of this chapter that requires a signature.

(k) *Affidavits and declarations made under penalty of perjury.* E-filers may submit electronic pleadings in the form of declarations made under penalty of perjury under 28 U.S.C. 1746, as described in appendix IV to this part. If the declarant is someone other than the e-filer, a signed affidavit or declaration should be uploaded as an image file or with an acceptable digital signature that complies with requirements set forth in e-Appeal policies posted to the MSPB's website.

(l) *Date electronic documents are filed and served.* (1) As provided in § 1201.4(l) of this part, the date of filing for pleadings filed via e-Appeal is the date of electronic submission. All pleadings filed via e-Appeal are time stamped with Eastern Time, but the timeliness of a pleading will be determined based on the time zone from which the pleading was submitted. For example, a pleading filed at 11 p.m. Pacific Time on August 20 will be stamped by e-Appeal as being filed at 2 a.m. Eastern Time on August 21. However, if the pleading was required to be filed with the Washington Regional Office (in the Eastern Time Zone) on August 20, it would be considered timely, as it was submitted prior to midnight Pacific Time on August 20.

(2) MSPB documents served electronically on e-filers are deemed received on the date of electronic transmission.

(m) *Authority of MSPB to regulate e-filing.* (1) A judge or the Clerk of the Board may issue orders regulating the method of submissions for a particular period or particular submissions.

(2) A judge or the Clerk of the Board may require that any document filed electronically be submitted in non-electronic form and bear the written signature of the submitter.

(3) The MSPB may order any party or authorized individual to cease participation as an e-filer or access to e-Appeal in circumstances that constitute a misuse of the system or a failure to comply with law, rule, regulation, or policy governing use of a U.S. government information system.

(4) MSPB reserves the right to revert to traditional methods of service. The MSPB may serve documents via traditional means—postal mail, facsimile, commercial or personal delivery—at its discretion. Parties and their representatives are responsible for ensuring that the MSPB always has their current postal mailing addresses, even when they are e-filers.

§ 1201.24 [Amended]

■ 3. Amend § 1201.24 as follows:
■ a. By removing from the third sentence in paragraph (a) introductory text the words ''in electronic form'' and adding in their place ''electronically'';
■ b. By removing from paragraph (a)(1) the words ''and telephone number'' and adding in their place ''telephone number, and email address'';
■ c. By removing from paragraph (a)(6) the words ''and telephone number'' and adding in their place ''telephone number, and email address'';
■ d. By removing from paragraph (a)(9) the words ''the Board's e-Appeal site (*https://e-appeal.mspb.gov*)'' and adding in their place ''e-Appeal''; and
■ e. By removing from paragraph (c) the words ''the e-Appeal site (*https://e-appeal.mspb.gov*)'' and adding in their place ''e-Appeal'' and by removing the words ''Board's Web site'' and adding in their place ''MSPB's website''.

■ 4. Revise § 1201.26 to read as follows:

§ 1201.26 Service of Pleadings and Response

(a) *Service*—(1) *Service by the Board.* The appropriate office of the Board will notify each party to the proceeding that a new appeal has been docketed and will attach to the initial order in the proceeding a certificate of service, consisting of a list of the parties to the proceeding or their designated representatives.

(2) *Service by the parties.* The parties must serve on each other one copy of each pleading, as defined by § 1201.4(b), and all documents submitted with it, except for the appeal. They may do so by electronic filing in accordance with § 1201.14, postal mail, facsimile, or commercial or personal delivery. Documents and pleadings must be served on each party and each representative. A certificate of service stating how and when service was made must accompany each pleading. The parties and their representatives must notify the appropriate Board office and one another, in a pleading, of any changes in their address, telephone number, or email address.

(b) *Submission of documents.* Pleadings and attachments filed via postal mail, facsimile, or commercial or personal delivery must be filed on 8½-inch by 11-inch paper. This requirement enables the Board to comply with standards established for U.S. courts. Paper pleadings and attachments may not contain binders, folders, staples, paper clips, or notes adhered to pages. Such items will be removed and not included in the record, or the filing may be rejected. Documents may not be submitted on an electronic media storage device such as a Compact Disc (CD), Digital Video Disc (DVD), or flash drive. Parties are responsible for reviewing all pleadings to confirm legibility and to minimize the inclusion of nonrelevant personally identifiable information. Pleadings filed via e-Appeal must adhere to the formatting and filing requirements set forth in § 1201.14(h).

(c) *Submission of audio and video evidence.* Audio and video evidence must be submitted according to the formatting and submission requirements set forth in policies posted to the MSPB's website.

Appendix II to Part 1201—[Amended]

■ 5. Amend appendix II to part 1201 by:
■ a. Removing the second sentence of the introductory text; and
■ b. Removing from paragraph 3a the words ''26 Federal Plaza, Room 3137–A, New York, New York 10278–0022, Facsimile No.: (212) 264–1417'' and adding in their place ''1601 Market Street, Suite 1700, Philadelphia, PA 19103, Facsimile No.: (215) 597–3456''.

Jennifer Everling,

Acting Clerk of the Board.

[FR Doc. 2023–21272 Filed 9–28–23; 8:45 am]

BILLING CODE 7400–01–P

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2411

Availability of Official Information

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Federal Labor Relations Authority (FLRA) amends its regulations for processing records under the Freedom of Information Act (FOIA). The amendments streamline and update procedures for requesting information from the FLRA and procedures that the FLRA follows in responding to requests from the public.

DATES: Effective September 29, 2023.

FOR FURTHER INFORMATION CONTACT: If you have any questions, please contact Thomas Tso, Solicitor, Chief FOIA Officer, Federal Labor Relations Authority, 1400 K Street NW, Washington, DC 20424; (771) 444–5775.

SUPPLEMENTARY INFORMATION: To adapt to recent trends in FOIA requests made to the FLRA, the amendments centralize and streamline its FOIA request system. In addition to some minor non-substantive changes to correct typographical errors, the FLRA consolidates responsibility under the FOIA regulations for the FLRA's three-member Authority component, the Office of General Counsel, and the Federal Service Impasses Panel by transferring those responsibilities to the Solicitor of the FLRA (''Solicitor'') as their FOIA representative. The Solicitor serves as the agency's in-house counsel and typically as the agency's Chief FOIA Officer. The FLRA revises the relevant regulations in order to reflect the Solicitor's role as the representative of the Authority, the General Counsel, and the Panel for FOIA matters.

Consistent with the Office of Management and Budget's 2020 Update to the Uniform Freedom of Information Act Fee Schedule and Guidelines, 85 FR 81955 (Dec. 17, 2020), and the decision of the U.S. Court of Appeals for the District of Columbia Circuit addressing the ''educational institution'' fee category, the revisions also clarify the individuals who may qualify for reduced fees as an educational or noncommercial scientific institution under 5 CFR 2411.13(c)(2). *See Sack* v. *Dept. of Defense,* 823 F.3d 687, 693 (D.C. Cir. 2016) (''To be clear, to qualify for reduced fees as an educational institution, the requester—whether teacher or student—must seek the information in connection with his or her role at the educational institution.'').

This rule is internal and procedural rather than substantive. It does not create a right to obtain FLRA records, nor does it create any additional right or privilege not already available to the public as a result of the FOIA Improvement Act of 2016. It merely builds upon and clarifies the previous agency procedures for processing FOIA-related requests.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FLRA has determined that these regulations, as amended, will not have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule change will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one 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.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 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.

Paperwork Reduction Act of 1995

The amended regulations contain no additional information-collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

Public Participation

This rule is published as a final rule. It is exempt from public comment, pursuant to 5 U.S.C. 553(b)(A), as a rule of ''agency organization, procedure, or practice.'' If you wish to contact the agency, please do so at the above listed address. However, before including your address, phone number, email address, or other personal identifying information in any communications with the agency, you should be aware that your communications—including your personal identifying information—may be made publicly available at any time. While you can ask us in your communications to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 5 CFR Part 2411

Freedom of Information Act.

For the reasons stated in the preamble, the Federal Labor Relations Authority amends 5 CFR part 2411 as follows:

PART 2411—AVAILABILITY OF OFFICIAL INFORMATION

■ 1. The authority for part 2411 continues to read as follows:

Authority: 5 U.S.C. 552, as amended; Freedom of Information Improvement Act of 2016, Pub. L. 114–185, 130 Stat. 528; Openness Promotes Effectiveness in our National Government Act of 2007 (OPEN Government Act), Pub. L. 110–175, 121 Stat. 2524.

■ 2. Amend § 2411.3 by revising paragraph (b) to read as follows:

§ 2411.3 Delegation of authority.

* * * * *

(b) Solicitor/IG. The Solicitor of the FLRA and the IG are delegated the exclusive authority to act upon all requests for information, documents, and records that are received from any person or organization under § 2411.5(a) and (b).

* * * * *

■ 3. Revise § 2411.5 to read as follows:

§ 2411.5 Procedure for obtaining information.

(a) Any person who desires to inspect or copy any records, documents, or other information of the Authority, the General Counsel, the Panel, or the IG, covered by this part, other than those specified in § 2411.4(a)(1) and (c), shall submit an electronic written request via the FOIAXpress system or a written, facsimiled, or email request (*see* FOIAXpress, office and email addresses listed at *https://www.flra.gov/foia_contact*) as follows:

(1) If the request is for records, documents, or other information in the Authority, the Office of General Counsel, or the Panel, it should be made to the Office of the Solicitor, Washington, DC;

(2) If the request is for records, documents or other information in the offices of the IG in Washington, DC, it should be made to the IG, Washington, DC.

(b) Each request under this part should be clearly and prominently identified as a request for information under the FOIA and, if submitted by mail or otherwise submitted in an envelope or other cover, should be clearly identified as such on the envelope or other cover. A request shall be considered an agreement by the requester to pay all applicable fees charged under § 2411.13, up to $25.00, unless the requester seeks a waiver of fees. When making a request, the requester may specify a willingness to pay a greater or lesser amount. Fee charges will be assessed for the full allowable direct costs of document search, review, and duplication, as appropriate, in accordance with § 2411.13. If a request does not comply with the provisions of this paragraph, it shall not be deemed received by the Office of the Solicitor or the IG, as appropriate.

■ 4. Amend § 2411.6 by revising paragraphs (a), (c) and (d) to read as follows:

§ 2411.6 Identification of information requested.

(a) *Reasonably describe and identify records.* Each request under this part shall reasonably describe the records being sought in a way that the FLRA can identify and locate them. A request shall be legible and include all pertinent details that will help identify the records sought. Before submitting a request, a requester may contact the FLRA's Chief FOIA Officer or FOIA Public Liaison to discuss the records that the individual seeks and to receive assistance in describing the records.

* * * * *

(c) *Public logs.* Upon receipt of a request for records, the Solicitor or the IG, as appropriate, shall enter it in a public log. The log shall state: The request number; the date received; the nature of the records requested; the action taken on the request; the agency's response date; any exemptions that were applied (if applicable) and their descriptions; and whether any fees were charged for processing the request.

(d) *Consultation, referral, and coordination.* When reviewing records located in response to a request, the Solicitor or the IG, as appropriate, will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA. As to any such record, the Solicitor or the IG will proceed in one of the following ways:

(1) *Consultation.* When records originated with the Authority, the General Counsel, the Panel, or the IG, but contain within them information of interest to another agency or other Federal Government component, the Solicitor or the IG, as appropriate, will typically consult with that other entity prior to making a release determination.

(2) *Referral.* (i) When the Solicitor or the IG believes that a different agency or component is best able to determine whether to disclose the record, the Solicitor or the IG will typically refer the responsibility for responding to the request regarding that record to that agency or component. Ordinarily, the agency or component that originated the record is presumed to be the best agency or component to make the disclosure determination. However, if the FLRA and the originating agency or component jointly agree that the FLRA is in the best position to respond regarding the record, then the record may be handled as a consultation.

(ii) Whenever the Solicitor or the IG refers any part of the responsibility for responding to a request to another Federal agency, it must document the referral, maintain a copy of the record that it refers, and notify the requester of the referral, informing the requester of the name(s) of the agency to which the record was referred, including that agency's FOIA contact information.

(3) *Coordination.* The standard referral procedure is not appropriate where disclosure of the identity of the agency to which the referral would be made could harm an interest protected by an applicable exemption, such as the exemptions that protect personal privacy or national-security interests. In such instances, in order to avoid harm to an interest protected by an applicable exemption, the Solicitor or the IG should coordinate with the originating agency to seek its views on the disclosability of the record. The release determination for the record that is the subject of the coordination should then be conveyed to the requester by the Solicitor or the IG.

■ 5. Revise § 2411.7 to read as follows:

§ 2411.7 Format of disclosure.

(a) After a determination has been made to grant a request in whole or in part, the Solicitor or the IG, as appropriate, will notify the requester in writing. The notice will describe the manner in which the record will be disclosed and will inform the requester of the availability of the Authority's FOIA Public Liaison to offer assistance. The Solicitor or the IG, as appropriate, will provide the record in the form or format requested if the record is readily reproducible in that form or format, provided the requester has agreed to pay and/or has paid any fees required by § 2411.13 of this part. The Solicitor or the IG, as appropriate, will determine on a case-by-case basis what constitutes a readily reproducible format. These offices will make a reasonable effort to maintain their records in commonly reproducible forms or formats.

(b) Alternatively, the Solicitor or the IG, as appropriate, may make a copy of the releasable portions of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection will not unreasonably disrupt the operations of the office.

■ 6. Amend § 2411.8 by revising paragraphs (a), (b), (c) introductory text, (c)(4) and (5), (d) introductory text, and (d)(2) introductory text to read as follows:

§ 2411.8 Time limits for processing requests.

(a) The 20-day period (excepting Saturdays, Sundays, and federal public holidays), established in this section, shall commence on the date on which the request is first received by the Solicitor or the IG, but in any event not later than 10 days after the request is first received by the FLRA component responsible for receiving FOIA requests under part 2411. The 20-day period does not run when:

(1) the Solicitor or the IG makes one request to the requester for information and is awaiting such information that it has reasonably requested from the requester;

(2) it is necessary to clarify with the requester issues regarding fee assessment; or

(3) the Solicitor's or the IG's s receipt of the requested information or clarification triggers the commencement of the 20-day period.

(b) A request for records shall be logged by the Solicitor or the IG, as appropriate, pursuant to § 2411.6(c). All requesters must reasonably describe the records sought. An oral request for records shall not begin any time requirement. A written request for records sent to other than the appropriate officer will be forwarded to that officer by the receiving officer, but, in that event, the applicable time limit for response shall begin as set forth in paragraph (a) of this section.

(c) Except as provided in § 2411.11, the Solicitor or the IG, as appropriate, shall, within 20 working days following receipt of the request, as provided by paragraph (a) of this section, respond in writing to the requester, determining whether, or the extent to which, the request shall be complied with.

* * * * *

(4) Whenever possible, subject to the provisions of paragraph (g) of § 2411.13, the response relating to a request for records that involves a fee of less than $250.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Solicitor or the IG.

(5) Search fees shall not be assessed to requesters (or duplication fees in the case of an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media requester, as defined by § 2411.13(a)(8)) under this subparagraph if an agency component fails to comply with any of the deadlines in 5 U.S.C. 552(a)(4)(A), except as provided in the following paragraphs (c)(5)(i) through (iii) below:

(i) If the Solicitor or the IG has determined that unusual circumstances apply (as the term is defined in § 2411.11(b)) and the Solicitor or the IG provided a timely written notice to the requester in accordance with § 2411.11(a), a failure described in this paragraph (c)(5) is excused for an additional 10 days. If the Solicitor or the IG fails to comply with the extended time limit, the Solicitor or the IG may not assess any search fees (or, in the case of a requester described in § 2411.13(a)(8), duplication fees).

(ii) If the Solicitor or the IG determines that unusual circumstances apply and more than 5,000 pages are necessary to respond to the request, the Solicitor or the IG may charge search fees or, in the case of requesters defined in § 2411.13(6) through (8), may charge duplication fees, if the following steps are taken. The Solicitor or the IG must have provided timely written notice of unusual circumstances to the requester in accordance with the FOIA and must have discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii). If this exception is satisfied, the Solicitor or the IG may charge all applicable fees incurred in the processing of the request.

(iii) If a court has determined that exceptional circumstances exist, as defined by the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order.

(d) If a request will take longer than 10 days to process:

* * * * *

(2) Using the tracking number, the requester can find, by calling the Office of the Solicitor, emailing *solmail@flra.gov,* or visiting FOIAXPress (see telephone numbers and addresses at *https://www.flra.gov/foia_contact*), status information about the request including:

* * * * *

■ 7. Amend § 2411.10 by revising paragraphs (a)(1), (a)(2) introductory text, (a)(2)(ii), (b), and (c) to read as follows:

§ 2411.10 Appeal from denial of request.

(a)(1) When a request for records is denied, in whole or in part, a requester may appeal the denial by submitting a written appeal by mail or online that is postmarked, or in the case of an electronic submission, transmitted, within 90 calendar days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial. The appeal should clearly identify the agency determination that is being appealed and the assigned request number.

(i) If the denial was made for records related to work performed by the

Authority component of the FLRA, including the IG, the appeal shall be filed with the Chairman of the Authority or the Chairman's designee in Washington, DC.

(ii) If the denial was made for records related to work performed by the Office of the General Counsel, the appeal shall be filed with the General Counsel or the General Counsel's designee in Washington, DC.

(iii) If the denial was made for records related to work performed by the Panel, the appeal shall be filed with the Chairman of the Panel or the Chairman's designee.

(2) The Chairman of the Authority, the General Counsel, or the Chairman of the Panel, or their designees, as appropriate, shall, within 20 working days (excepting Saturdays, Sundays, and federal public holidays) from the time of receipt of the appeal, except as provided in § 2411.11, make a determination on the appeal and respond in writing to the requester, determining whether, or the extent to which, the request shall be granted. An appeal ordinarily will not be adjudicated if the request becomes a matter of FOIA litigation.

* * * * *

(ii) Whenever possible, the determination relating to a request for records that involves a fee of less than $250.00 shall be accompanied by the requested records when there is no history of the requester having previously failed to pay fees in a timely manner. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Solicitor or the IG.

(b) If, on appeal, the denial of the request for records is upheld in whole or in part by the Chairman of the Authority, the General Counsel, or the Chairman of the Panel, or their designees, as appropriate, the person making the request shall be notified of the reasons for the determination, the name and title or position of the person responsible for the denial, and the provisions for judicial review of that determination under 5 U.S.C. 552(a)(4). The determination will also inform the requester of the mediation services offered by the National Archives, Office of Government Information Services (OGIS) as a non-exclusive alternative to litigation. Mediation is a voluntary process. If the FLRA agrees to participate in the mediation services provided by the OGIS, it will actively engage as a partner to the process in an attempt to resolve the dispute.

(c) Even though no appeal is filed from a denial in whole or in part of a request for records by the person making the request, the Chairman of the Authority, the General Counsel, or the Chairman of the Panel, or their designees, as appropriate, may, without regard to the time limit for filing of an appeal, sua sponte initiate consideration of a denial under this appeal procedure by written notification to the person making the request. In such event, the time limit for making the determination shall commence with the issuance of such notification.

* * * * *

■ 8. Revise § 2411.12 to read as follows:

§ 2411.12 Effect of failure to meet time limits.

Failure by the Solicitor or the IG either to deny or grant any request under this part within the time limits prescribed by the FOIA, as amended and these regulations shall be deemed to be an exhaustion of the administrative remedies available to the person making this request.

■ 9. Amend § 2411.13 by revising paragraphs (a) introductory text, (a)(1), (a)(2), (a)(5), paragraph (b) heading, (b)(1), (b)(2), (b)(3), (b)(4)(i), (b)(4)(ii) introductory text, (b)(4)(ii)(D), (b)(4)(iii) introductory text, (b)(4)(iii)(B), (b)(4)(iv), (b)(4)(v), (c) introductory text, (c)(2), (c)(3), (c)(4), (d) introductory text, (d)(1), (d)(4), (e), (f), (g), (h), and (j) to read as follows:

§ 2411.13 Fees.

(a) *Definitions.* For the purpose of this section:

(1) The term *direct costs* means those expenditures that the Solicitor or the IG actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of the rate to cover benefits) and the cost of operating duplication machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(2) The term *search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents as well as all reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Searches may be done manually or by computer using existing programming. The Solicitor or the IG shall ensure that searches are done in the most efficient and least expensive manner reasonably possible. For example, if duplicating an entire document would be quicker and less expensive, a line-by-line search should not be done.

* * * * *

(5) The term *commercial-use request* refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Solicitor or the IG will look first to the use to which a requester will put the document requested. Where the Solicitor or the IG has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Solicitor or the IG may seek additional clarification before assigning the request to a specific category.

* * * * *

(b) *Exceptions to fee charges.* (1) With the exception of requesters seeking documents for a commercial use, the Solicitor or the IG will provide the first 100 pages of duplication and the first two hours of search time without charge. The word *pages* in this paragraph refers to paper copies of standard size, usually 8½ by 11. The term *search time* in this paragraph is based on a manual search for records. In applying this term to searches made by computer, when the cost of the search as set forth in paragraph (d)(2) of this section equals the equivalent dollar amount of two hours of the salary of the person performing the search, the Solicitor or the IG will begin assessing charges for the computer search. No search or review fees will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(2) The Solicitor or the IG will not charge fees to any requester, including commercial-use requesters, if the cost of collecting the fee would be equal to or greater than the fee itself.

(3) As provided in § 2411.8(c)(5), the Solicitor or the IG will not charge search fees (or duplication fees if the requester is an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media, as described in this section), when the time limits are not met.

(4)(i) The Solicitor or the IG will provide documents without charge or at reduced charges if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of

the operations or activities of the government; and is not primarily in the commercial interest of the requester.

(ii) In determining whether disclosure is in the ''public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government'' under paragraph (b)(4)(i) of this section, the Solicitor or the IG, as appropriate, will consider the following factors:

* * * * *

(D) *The significance of the contribution to the public understanding.* The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced by the disclosure to a significant extent. The Solicitor or the IG, as appropriate, shall not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is ''important'' enough to be made public.

(iii) In determining whether disclosure ''is not primarily in the commercial interest of the requester'' under paragraph (b)(4)(i) of this section, the Solicitor or the IG, as appropriate, will consider the following factors:

* * * * *

(B) *The primary interest in disclosure.* A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. The Solicitor or the IG, as appropriate, ordinarily shall presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest.

(iv) A request for a fee waiver based on the public interest under paragraph (b)(4)(i) of this section must address these factors as they apply to the request for records in order to be considered by the Solicitor or the IG.

(v) Requests for a waiver or reduction of fees should be made when the request is first submitted to the Solicitor or the IG. A requester may submit a fee-waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees, and that waiver is denied, the requester must pay any costs incurred up to the date on which the fee-waiver request was received.

* * * * *

(c) *Level of fees to be charged.* The level of fees to be charged by the Solicitor or the IG, in accordance with the schedule set forth in paragraph (d) of this section, depends on the category of the requester. The fee levels to be charged are as follows:

* * * * *

(2) A request for documents from an educational or non-commercial scientific institution will be charged for the cost of duplication alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters—whether faculty, staff, or students—must show that the request is being made in connection with their role at the institution, and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(3) The Solicitor or the IG shall provide documents to requesters who are representatives of the news media for the cost of duplication alone, excluding charges for the first 100 pages.

(4) The Solicitor or the IG shall charge requesters who do not fit into any of the categories of this section fees that recover the full direct cost of searching for and duplicating records that are responsive to the request, except that the first 100 pages of duplication and the first two hours of search time shall be furnished without charge. Requests from record subjects for records about themselves filed in Authority, Office of General Counsel, Panel, or IG systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974, which permits fees only for duplication.

(d) The following fees shall be charged in accordance with paragraph (c) of this section:

(1) *Manual searches for records.* The salary rate (*i.e.,* basic pay plus 16 percent) of the employee(s) making the search. Search time under this paragraph and paragraph (d)(2) of this section may be charged for even if the Solicitor or the IG fails to locate records or if records located are determined to be exempt from disclosure.

* * * * *

(4) *Duplication of records.* Twenty-five cents per page for paper-copy duplication of documents, which the Solicitor or the IG has determined is the reasonable direct cost of making such copies, taking into account the average salary of the operator and the cost of the duplication machinery. For copies of records produced on tapes, disks, or other media, the Solicitor or the IG shall charge the actual cost of production, including operator time. When paper documents must be scanned in order to comply with a requester's preference to receive the records in an electronic format, the requester shall pay the direct costs associated with scanning those materials, including operator time. For all other forms of duplication, the Solicitor or the IG will charge the direct costs, including operator time.

* * * * *

(e) *Aggregating requests.* When the Solicitor or the IG reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Solicitor or the IG will aggregate any such requests and charge accordingly.

(f) *Charging interest.* Interest at the rate prescribed in 31 U.S.C. 3717 may be charged to those requesters who fail to pay fees charged, beginning on the 31st day following the billing date. Receipt of a fee by the Solicitor or the IG, whether processed or not, will stay the accrual of interest.

(g) *Advance payments.* The Solicitor or the IG will not require a requester to make an advance payment, *i.e.,* payment before work is commenced or continued on a request, unless:

(1) The Solicitor or the IG estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. In those circumstances, the Solicitor or the IG will notify the requester of the likely cost and obtain satisfactory assurance of full payment, where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (*i.e.,* within 30 days of the date of the billing), in which case the Solicitor or the IG requires the requester to pay the full amount owed plus any applicable interest, as provided in this section, or demonstrate that the requester has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester. When the Solicitor or the IG has a reasonable basis to believe that a requester has misrepresented his or her identity in order to avoid paying outstanding fees, it may require that the

requester provide proof of identity. When the Solicitor or the IG acts under paragraph (g)(1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (*i.e.,* 20 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extension of these time limits) will begin only after the Solicitor or the IG has received fee payments described in this section. If the requester does not pay the advance payment within 30 calendar days after the date of the fee determination, the request will be closed.

(h) When a person other than a party to a proceeding before the FLRA makes a request for a copy of a transcript or recording of the proceeding, the Solicitor or the IG, as appropriate, will handle the request under this part.

* * * * *

(j) The fee schedule of this section does not apply to fees charged under any statute that specifically requires the Authority, the General Counsel, the Panel, the Solicitor or the IG to set and collect fees for particular types of records. In instances in which records responsive to a request are subject to a statutorily based fee-schedule program, the Solicitor or the IG will inform the requester of the contact information for that program.

■ 10. Revise § 2411.114 to read as follows.

§ 2411.14 Record retention and preservation.

The Solicitor and the IG shall preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until such time as disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

■ 11. Revise § 2411.15 to read as follows:

§ 2411.15 Annual report.

Each year, on or around February 1, as requested by the Department of Justice's Office of Information Policy, the Chief FOIA Officer of the FLRA shall submit a report of the activities of the Solicitor and the IG with regard to public information requests during the preceding fiscal year to the Attorney General of the United States and the Director of the OGIS. The report shall include those matters required by 5 U.S.C. 552(e), and it shall be made available electronically. The Chief FOIA Officer of the FLRA shall make each such report available for public inspection in an electronic format. In addition, the Chief FOIA Officer of the FLRA shall make the raw statistical data used in each report available in a timely manner for public inspection in an electronic format, which shall be available—

(a) Without charge, license, or registration requirement;

(b) In an aggregated, searchable format; and

(c) In a format that may be downloaded in bulk.

Approved: September 21, 2023.

Rebecca J. Osborne,

Federal Register Liaison, Federal Labor Relations Authority.

[FR Doc. 2023–20909 Filed 9–28–23; 8:45 am]

BILLING CODE 7627–01–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 217

RIN 1601–AA94

Designation of Israel for the Visa Waiver Program

AGENCY: Office of the Secretary; Department of Homeland Security (DHS).

ACTION: Final rule; technical amendment.

SUMMARY: Eligible citizens, nationals, and passport holders from designated Visa Waiver Program countries may apply for admission to the United States at U.S. ports of entry as nonimmigrant noncitizens for a period of ninety days or less for business or pleasure without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission under applicable statutory and regulatory requirements. The Secretary of Homeland Security, in consultation with the Secretary of State, has designated Israel as a country that is eligible to participate in the Visa Waiver Program. Accordingly, this rule updates the list of countries designated for participation in the Visa Waiver Program by adding Israel.

DATES: This final rule is effective on September 29, 2023. The Secretary's designation was effective on September 26, 2023. The designation will be implemented on November 30, 2023.

FOR FURTHER INFORMATION CONTACT: Anjum Agarwala, Department of Homeland Security, Visa Waiver Program Office, (202) 790–5207.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Visa Waiver Program

Pursuant to section 217 of the Immigration and Nationality Act (INA), 8 U.S.C. 1187, the Secretary of Homeland Security (the Secretary), in consultation with the Secretary of State, may designate certain countries as Visa Waiver Program (VWP) countries [1] if certain requirements are met. Those requirements include: (1) a U.S. Government determination that the country meets the applicable statutory requirement with respect to nonimmigrant visitor visa refusals for nationals of the country during the previous full fiscal year; (2) a U.S. Government determination that the country extends or agrees to extend reciprocal privileges to citizens and nationals of the United States; (3) an official certification that it issues machine-readable, electronic passports that comply with internationally accepted standards; (4) a U.S. Government determination that the country's designation would not negatively affect U.S. law enforcement and security interests; (5) an agreement with the United States to report, or make available through other designated means, to the U.S. Government information about the theft or loss of passports; (6) a U.S. Government determination that the government accepts for repatriation any citizen, former citizen, or national not later than three weeks after the issuance of a final executable order of removal; and (7) an agreement with the United States to share information regarding whether citizens or nationals of the country represent a threat to the security or welfare of the United States or its citizens.

The INA also sets forth requirements for continued eligibility and, where appropriate, probation and/or termination of program countries.

Prior to this final rule, the designated countries in the VWP were Andorra, Australia, Austria, Belgium, Brunei, Chile, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg,

[1] All references to ''country'' or ''countries'' in the laws authorizing the Visa Waiver Program are read to include Taiwan. *See* Taiwan Relations Act of 1979, Public Law 96–8, section 4(b)(1) (codified at 22 U.S.C. 3303(b)(1)) (providing that ''[w]henever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan''). This is consistent with the United States' one-China policy, under which the United States has maintained unofficial relations with Taiwan since 1979.

Malta, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, San Marino, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan,[2] and the United Kingdom.[3] *See* 8 CFR 217.2(a).

Citizens and eligible nationals of VWP countries may apply for admission to the United States at U.S. ports of entry as nonimmigrant visitors for a period of ninety days or less for business or pleasure without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission under applicable statutory and regulatory requirements. To travel to the United States under the VWP, any person who is not a citizen or national of the United States (hereinafter a ''noncitizen'') must satisfy the following:

(1) be seeking admission as a nonimmigrant visitor for business or pleasure for ninety days or less;

(2) be a national of a program country;

(3) present a machine-readable, electronic passport issued by a designated VWP participant country to the air or vessel carrier before departure;

(4) execute the required immigration forms;

(5) if arriving by air or sea, arrive on an authorized carrier;

(6) not represent a threat to the welfare, health, safety, or security of the United States;

(7) have not violated U.S. immigration law during any previous admission under the VWP;

(8) possess a round-trip ticket, unless exempted by statute or federal regulation;

(9) the identity of the noncitizen has been checked to uncover any grounds on which the noncitizen may be inadmissible to the United States, and no such ground has been found;

(10) certain aircraft operators, as provided by statute and regulation, must electronically transmit information about the noncitizen passenger;

(11) obtain an approved travel authorization via the Electronic System for Travel Authorization (ESTA). For more information about the ESTA, please see 8 CFR part 217.5 (regulation effective July 8, 2015), 80 FR 32,267 (June 8, 2015), 75 FR 47,701 (Aug. 9, 2010);

(12) has not been present, at any time on or after March 1, 2011 in Iraq, Syria, a country that is designated by the Secretary of State as a state-sponsor of terrorism, or a country or area of concern designated by the Secretary of Homeland Security, in accordance with 8 U.S.C. 1187(a)(12)(D), subject to statutorily delineated exemptions or a waiver authorized by the Secretary; and

(13) waive the right to review or appeal a decision regarding admissibility or to contest, other than on the basis of an application for asylum, any action for removal.

See sections 217(a) and 217(b) of the INA, 8 U.S.C. 1187(a)–(b); *see also* 8 CFR part 217.

B. Designation of Israel

The Department of Homeland Security, in consultation with the Department of State, has evaluated Israel for VWP designation to ensure that it meets the requirements set forth in section 217 of the INA. The Secretary has determined that Israel has satisfied the statutory requirements for initial VWP designation; therefore, the Secretary, in consultation with the Secretary of State, has designated Israel as a program country.

This final rule adds Israel to the list of countries authorized to participate in the VWP. Accordingly, beginning November 30, 2023, eligible citizens and nationals of Israel may apply for admission to the United States at U.S. ports of entry as nonimmigrant visitors for business or pleasure for a period of ninety days or less without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission under applicable statutory and regulatory requirements.

II. Statutory and Regulatory Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. The final rule merely lists a country that the Secretary of Homeland Security, in consultation with the Secretary of State, has designated as a VWP eligible country in accordance with section 217(c) of the INA, 8 U.S.C. 1187(c). This amendment is a technical change to merely update the list of VWP countries. Therefore, notice and comment for this rule is unnecessary and contrary to the public interest because the rule has no substantive impact, is technical in nature, and relates only to management, organization, procedure, and practice.

This final rule is also excluded from the rulemaking provisions of 5 U.S.C. 553 as a foreign affairs function of the United States because it advances the President's foreign policy goals and directly involves relationships between the United States and its noncitizen visitors. Accordingly, DHS is not required to provide public notice and an opportunity to comment before implementing this final rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 604(a)), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions) when the agency was required ''to publish a general notice of proposed rulemaking'' prior to issuing the final rule. Because this rule is being issued as a final rule without a prior proposal, on the grounds set forth above, a regulatory flexibility analysis is not required under the RFA.

In addition, DHS has considered the impact of this rule on small entities and has determined that this rule will not have a significant economic impact on a substantial number of small entities. The individual noncitizens to whom this rule applies are not small entities as that term is defined in 5 U.S.C. 601(6). Accordingly, there is no change expected in any process as a result of this rule that would have a direct effect, either positive or negative, on a small entity.

C. Unfunded Mandates Reform 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 one 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.

D. Executive Order 12866

This amendment does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866, as amended by Executive Order 14094.

[2] Taiwan refers only to individuals who have unrestricted right of permanent abode on Taiwan and are in possession of an electronic passport bearing a personal identification (household registration) number.

[3] The United Kingdom refers only to British citizens who have the unrestricted right of permanent abode in the United Kingdom (England, Scotland, Wales, Northern Ireland, the Channel Islands, and the Isle of Man); it does not refer to British overseas citizens, British dependent territories' citizens, or citizens of British Commonwealth countries.

E. Executive Order 13132

The 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, DHS has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

The Department of Homeland Security is modifying the Office of Management and Budget (OMB) Control Number 1651–0111, Arrival and Departure Record, to allow eligible Israeli passport holders to use an ESTA to apply for authorization to travel under the VWP prior to departing for the United States. U.S. Customs and Border Protection (CBP) uses the information to assist in determining if an applicant is eligible for travel under the VWP. The Department is requesting emergency processing of this change to 1651–0111 as the information is essential to the mission of the agency and is needed prior to the expiration of time periods established under the Paperwork Reduction Act of 1995 (PRA). Because of the designation of Israel for participation in the VWP, the Department is requesting OMB approval of this information collection in accordance with the PRA (44 U.S.C. 3507).

The addition of Israel to the VWP will result in an estimated annual increase to information collection 1651–0111 of 30,000 responses and 6,500 burden hours. The total burden hours for ESTA, including Israel, is as follows:

Estimated annual reporting burden: 3,256,500 hours.

Estimated number of respondents: 15,030,000 respondents.

Estimated average annual burden per respondent: 13 minutes.

List of Subjects in 8 CFR Part 217

Air carriers, aliens, maritime carriers, passports and visas.

Amendments to the Regulations

For the reasons stated in the preamble, DHS amends part 217 of title 8 of the Code of Federal Regulations (8 CFR part 217), as set forth below.

PART 217—VISA WAIVER PROGRAM

■ 1. The general authority citation for part 217 continues to read as follows:

Authority: 8 U.S.C. 1103, 1187; 8 CFR part 2.

■ 2. In § 217.2(a), revise the definition of ''Designated country'' to read as follows:

§ 217.2 Eligibility.

(a) * * *

Designated country refers to Andorra, Australia, Austria, Belgium, Brunei, Chile, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, San Marino, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, and the United Kingdom. The United Kingdom refers only to British citizens who have the unrestricted right of permanent abode in the United Kingdom (England, Scotland, Wales, Northern Ireland, the Channel Islands, and the Isle of Man); it does not refer to British overseas citizens, British dependent territories' citizens, or citizens of British Commonwealth countries. Taiwan refers only to individuals who have unrestricted right of permanent abode on Taiwan and are in possession of an electronic passport bearing a personal identification (household registration) number.

* * * * *

Alejandro N. Mayorkas,

Secretary.

[FR Doc. 2023–21574 Filed 9–27–23; 8:45 am]

BILLING CODE 9110–9M–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 52, and 72

[NRC–2023–0107]

Regulatory Guide: Weather-Related Administrative Controls at Independent Spent Fuel Storage Installations

AGENCY: Nuclear Regulatory Commission

ACTION: Final guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a new Regulatory Guide (RG) 3.77 (Revision 0), ''Weather-Related Administrative Controls at Independent Spent Fuel Storage Installations.'' This RG provides applicants and licensees with methods that the NRC staff considers acceptable for specific or general independent spent fuel storage installation licensees and certificate of compliance holders to comply with NRC regulations for protection against environmental conditions and natural phenomena.

DATES: Revision 0 to RG 3.77 is available on September 29, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0107 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0107. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.*
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

Revision 0 to RG 3.77 and the regulatory analysis may be found in ADAMS under Accession Nos. ML23192A535 and ML23089A014, respectively.

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

FOR FURTHER INFORMATION CONTACT: John-Chau Nguyen, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–0262; email: *John-Chau.Nguyen@nrc.gov,* or Jeremy Tapp, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–8047; email: *Jeremy.Tapp@nrc.gov,* or Harriet Karagiannis, Office of Nuclear Regulatory Research, telephone: 301–

415–2493; email: *Harriet.Karagiannis@nrc.gov.* All are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a new guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

RG 3.77 was issued with a temporary identification of Draft Regulatory Guide, DG–3057.

II. Additional Information

The NRC published a notice of the availability of DG–3057 (ADAMS Accession No. ML23089A012), in the **Federal Register** on June 5, 2023 (88 FR 36514), for a 30-day public comment period. The public comment period closed on July 5, 2023, and the staff has incorporated public comments submitted on DG–3057. Public comments on DG–3057 and the staff responses to the public comments are available under ADAMS under Accession No. ML23192A534.

This RG is a new RG 3.77, and provides the NRC staff and the industry with guidance that would provide applicants and licensees the option, in certain limited circumstances, to use administrative controls to ensure that the structures, systems, and components important to safety are designed to withstand the effects of weather-related wind and tornado natural phenomena without impairing their capability to perform their intended design functions during outdoor dry storage system handling activities. This RG is endorsing Nuclear Energy Institute 22–02, Revision 2, ''Guidelines for Weather-Related Administrative Controls for Short Duration Outdoor Dry Cask Storage Operations,'' with clarifications and exceptions.

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

III. Congressional Review Act

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

IV. Backfitting, Forward Fitting, and Issue Finality

Issuance of this regulatory guide does not constitute backfitting as defined in section 72.62 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Backfitting,'' as defined in 10 CFR 50.109, ''Backfitting,'' and as described in NRC Management Directive (MD) 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests'' (ADAMS Accession No.ML18093B087); or constitute forward fitting as that term is defined and described in MD 8.4; or affect the issue finality of any approval issued under 10 CFR part 52, ''Licenses, Certificates, and Approvals for Nuclear Powerplants.'' As explained in RG 3.77, applicants and licensees would not be required to comply with the positions set forth in RG 3.77.

V. Submitting Suggestions for Improvement of Regulatory Guides

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

Dated: September 25, 2023.

For the Nuclear Regulatory Commission.

Stephen M. Wyman,

Acting Chief,Regulatory Guide and ProgramsManagement Branch,Division of Engineering,Office of Nuclear Regulatory Research.

[FR Doc. 2023–21387 Filed 9–28–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter 1

[NRC–2023–0052]

Consideration of Current Operating Issues and Licensing Actions in License Renewal

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory issue summary; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Issue Summary (RIS) 2014–06, ''Consideration of Current Operating Issues and Licensing Actions in License Renewal.'' Revision 1 to RIS 2014–06 provides information to the addressees on how the NRC considers current operating issues in the license renewal review under NRC regulations. This RIS is intended for all holders of operating licenses and combined licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel. NRC regulations identify the technical information that must be submitted in a license renewal application to enable the NRC staff to make a determination that the license may be renewed. Pursuant to the regulations, an applicant is required to demonstrate that the effects of aging on the functionality of structures and components subject to an aging management review will be adequately managed; the consideration of recent operating experience is an important aspect of that demonstration. In addition, as required by NRC regulations, license renewal applicants need to update their applications with new information related to any current licensing basis changes during the NRC application review that could impact aging management of structures and components.

DATES: Revision 1 to RIS 2014–06 is available as of September 29, 2023.

ADDRESSES: Please refer to NRC–2023–0052 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for NRC–2023–0052. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS)

is provided the first time that it is mentioned in this document.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- This RIS is also available on the NRC's public website at *https://www.nrc.gov/reading-rm/doc-collections/gen-comm/reg-issues* (select 2014, scroll to Document Number RIS–14–06, and select the date 08/21/2023).

FOR FURTHER INFORMATION CONTACT: Lauren Gibson, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1056, email: *Lauren.Gibson@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC published a notice of opportunity for public comment on this RIS in the **Federal Register** on March 7, 2023 (88 FR 14091). The agency received comments from six commenters. The staff considered all comments, but no changes were made to the RIS. The NRC staff's evaluation of these comments is discussed in a publicly available memorandum which is available in ADAMS under Accession No ML23191A262.

RIS 2014–06, Revision 1, ''Consideration of Current Operating Issues and Licensing Actions in License Renewal'' is available in ADAMS under Accession No. ML23167A044.

As noted in the **Federal Register** on May 8, 2018 (83 FR 20858), this document (like other draft and final Regulatory Issue Summaries) is being published in the Rules section of the **Federal Register** to comply with publication requirements under 1 CFR chapter I.

Dated: September 26, 2023.

For the Nuclear Regulatory Commission.

Lisa M. Regner,

Chief, Generic Communication and Operating Experience Branch, Division of Reactor Oversight, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–21426 Filed 9–28–23; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 230926–0232]

RIN 0648–BG01

Designation of Wisconsin Shipwreck Coast National Marine Sanctuary; Delay of Effectiveness

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

ACTION: Final rule; delay of effectiveness.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) designated the Wisconsin Shipwreck Coast National Marine Sanctuary (WSCNMS) on June 23, 2021, and the final rule became effective on August 16, 2021. However, as discussed in the final rule, the provision that prohibits grappling into or anchoring on shipwreck sites (grappling and anchoring provision) was to go into effect on October 1, 2023. This action delays the effectiveness of the grappling and anchoring provision of the final rule until October 1, 2024.

DATES: As of September 29, 2023, the stay of § 922.213(a)(2), which published at 86 FR 32757, June 23, 2021, is extended until October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Russ Green, Superintendent, Office of National Marine Sanctuaries at 920–459–4425, *russ.green@noaa.gov,* or Wisconsin Shipwreck Coast National Marine Sanctuary, One University Drive, Sheboygan, WI 53081, Attn: Russ Green, Superintendent.

SUPPLEMENTARY INFORMATION: On June 23, 2021, NOAA published a final rule to implement the designation of the WSCNMS (86 FR 32737). The designation and regulations became effective on August 16, 2021 (86 FR 45860; August 17, 2023), although the effectiveness of the provision at 15 CFR 922.213(a)(2) was stayed until October 1, 2023. As discussed in the final rule (86 FR 32737; June 23, 2021), the effectiveness of § 922.213(a)(2), which prohibits grappling into or anchoring on shipwreck sites, was stayed until October 1, 2023, to provide NOAA with adequate time to develop a shipwreck mooring program and plan, begin installing mooring buoys, and develop best practices for accessing shipwrecks when mooring buoys are not present. With this final rule, NOAA is further delaying the effectiveness for the prohibition of grappling into or anchoring on shipwreck sites for one year, to October 1, 2024.

Section 922.213(a)(2) prohibits grappling into or anchoring on shipwreck sites to protect fragile shipwrecks within the sanctuary from damage. The initial two-year delay, and also this thirteen-month extension of the effectiveness, is necessary to provide additional time for NOAA to develop a shipwreck mooring program, which will include the installation of mooring buoy systems and public outreach and education.

While the prohibition on grappling into or anchoring on shipwreck sites is essential to protect shipwrecks from damage, NOAA believes this interest should be balanced with the interest of promoting public access to the sanctuary. It is important to have permanent mooring buoys installed at priority shipwreck sites before the grappling and anchoring provision comes into effect, and NOAA needs additional time to install buoys.

NOAA established the initial two-year stay to delay the date of effectiveness for § 922.213(a)(2) when it issued the final rule to designate and implement regulations for the WSCNMS (86 FR 32737; June 23, 2021) in response to public comments expressing concerns that the prohibition would negatively affect commercial vessels that may need to anchor in the sanctuary, and also would limit public access to shipwrecks when alternatives to anchoring (*i.e.,* buoys) are not available (86 FR 32737, at 42144). NOAA delayed the date of effectiveness to allow NOAA time to install buoys and provide education on the location of shipwrecks and on how to access shipwrecks using other methods.

Since designation of the sanctuary in August 2021, NOAA has identified 19 shipwreck sites for installation of mooring buoys and engaged with the Lake Carriers Association to ensure the moorings do not impact commercial shipping. NOAA worked with State and Federal authorities to obtain required permits, and has awarded contracts to purchase various mooring components. NOAA intended to begin installing buoys during the summer months of 2023, but was ultimately unable to secure ship time from its partners. Buoy installation must occur during the summer months on Lake Michigan. Therefore, NOAA must wait until the summer season of 2024 to perform this work. This action extends the stay to delay the date of effectiveness until October 1, 2024, thus giving NOAA the

necessary additional time to install buoys. During the continuing delay, NOAA will minimize risks to shipwrecks by continuing its educational outreach efforts.

NOAA will continue its educational outreach to provide the public notice of shipwreck locations and best practices for accessing shipwrecks when mooring buoys are not present. All other regulatory provisions will remain in effect, including the prohibition on altering, destroying, or otherwise injuring any sanctuary resource (including shipwrecks) (§ 922.213(a)(1)). It also continues to be a violation of State law to damage shipwrecks, including damage from anchoring.

Classification

A. National Marine Sanctuaries Act

This action is issued pursuant to the National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1431 *et seq.,* the NMSA implementing regulations at 15 CFR part 922, and the WSCNMS implementing regulations at 15 CFR part 922, subpart T. The provision at 15 CFR 922.213(a)(2) prohibits grappling into or anchoring on shipwreck sites.

B. National Environmental Policy Act

NOAA's Policy and Procedures for Compliance with the National Environmental Policy Act (NEPA) and Related Authorities (NOAA Administrative Order (NAO) 216–6A and Companion Manual for NAO 216–6A) provide that all NOAA major Federal actions be reviewed with respect to environmental consequences on the human environment. In the June 2020 Final Environmental Impact Statement (FEIS) (*see https://nmssanctuaries.blob.core.windows.net/sanctuaries-prod/media/docs/2020-wisconsin-shipwreck-coast-national-marine-sanctuary-designation-final-eis.pdf*) for the designation of the WSCNMS, NOAA identified a preferred action, which was to establish a grappling and mooring program and to prohibit the grappling into and anchoring on shipwreck sites throughout the sanctuary. NOAA selected this alternative, as finalized in the June 23, 2021, final rule. The 2020 FEIS specifically stated that the provision prohibiting grappling into or anchoring on shipwreck sites would lead to beneficial impacts for historical resources and water quality resources, and that delaying the effectiveness of the grappling and anchoring provision would not cause adverse impacts to the existing shipwrecks because existing State regulations already prohibit damaging historic shipwrecks sites within the sanctuary area and because all other WSCNMS regulatory prohibitions (including the prohibition on damaging or injuring sanctuary resources at § 922.213(a)(1)) would remain in effect during this postponement. In the FEIS and implementing regulations, NOAA also explained that, to help vessels avoid inadvertently anchoring on known shipwrecks sites, NOAA will publish maps with coordinates of known and estimated shipwreck locations to help vessels avoid inadvertently anchoring on known shipwrecks sites.

Extending the delay of the date of effectiveness an additional year does not change NOAA's 2020 FEIS analysis of the environmental impacts of the delay. Additionally, NOAA will continue its educational outreach to provide the public notice of shipwreck locations and best practices for accessing shipwrecks when mooring buoys are not present. NOAA further believes there has not been a significant change to the environmental conditions, such as changes to the risks to shipwreck sites, that would change the potential environmental effects of continuing the delay analyzed in the FEIS. NOAA has determined that no additional NEPA analysis is required for this action.

Copies of the FEIS, the record of decision and other related materials that are specific to this action are available at *https://sanctuaries.noaa.gov/wisconsin/,* or by contacting NOAA at the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

C. Executive Order 12866: Regulatory Impact

This rule is not to be significant for purposes of Executive Order 12866, as amended by Executive Order 14094.

D. Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that the action designating the WSCNMS would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was discussed in the proposed rule issued on January 9, 2017 (82 FR 2269, at 22742275). As noted n the June 23, 2021 final rule (86 FR 32737, at 32752), the changes from the proposed rule would not have an impact on small entities and therefore would not change the conclusion of the certification at the proposed rule stage. In addition, NOAA did not receive any comments on the certification. Therefore, a final regulatory flexibility analysis was not required and was not prepared. This action to extend the delay in the effectiveness for the provision to prohibit the grappling into or anchoring on shipwreck sites similarly does not change the outcome of the certification.

E. Administrative Procedures Act

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator of the National Ocean Service, NOAA, finds good cause to not provide prior notice and opportunity for public comment. This action extends the delay of the date of effectiveness for § 922.213(a)(2), which prohibits grappling into or anchoring on shipwreck sites. NOAA originally established the initial two-year stay to delay the date of effectiveness for § 922.213(a)(2) when it issued the final rule to designate and implement regulations for the WSCNMS (86 FR 32737; June 23, 2021) in response to public comments expressing concerns that the prohibition would negatively affect commercial vessels that may need to anchor in the sanctuary, and also would limit public access to shipwrecks when alternatives to anchoring (*i.e.* buoys) are not available (86 FR 32737, at 42144). NOAA delayed the date of effectiveness to allow NOAA time to install buoys and provide education on the location of shipwrecks and on how to access shipwrecks using other methods. Buoy installation must occur during the summer months on Lake Michigan. NOAA intended to begin installing buoys during the summer months of 2023, but was ultimately unable to secure ship time from its partners. Therefore, NOAA must wait until the summer season of 2024 to perform this work. This action extends the delay of the date of effectiveness until October 1, 2024, thus giving NOAA the necessary additional time to install buoys. During the continuing delay, NOAA will minimize risks to shipwrecks by continuing its educational outreach efforts. Providing notice and opportunity for public comment under the Administrative Procedure Act for the extension of the delay of the effectiveness would serve no useful purpose because and the continued delay in effectiveness is consistent with the public comments already received. This delay in the date of effectiveness also supports the public interest in accessing shipwrecks. For these reasons, we find for good cause that notice and public procedure are unnecessary and contrary to the public interest.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Natural resources, Historic preservation, Marine resources, National marine sanctuaries, Recreation and recreation areas, Shipwrecks.

Nicole R. LeBoeuf,

Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2023–21648 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket No. 230905–0210]

RIN 0625–AB15

Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: Pursuant to its authority under title VII of the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) is modifying its regulations governing procedures related to administrative protective orders (APO) and service of documents submitted in antidumping (AD) and countervailing duty (CVD) proceedings. Specifically, Commerce is making certain changes to its procedures governing the filing of documents (including public documents, business proprietary documents, and public versions of business proprietary documents), as well as service of documents. Commerce is also making additional clarifications and corrections to other procedural aspects of its AD/CVD regulations, including updates to the scope, circumvention, and covered merchandise referral regulations. Lastly, Commerce is deleting from its regulations two provisions that have been invalidated by the United States Court of Appeals for the Federal Circuit (Federal Circuit).

DATES: Effective date: October 30, 2023. This final rule will apply to all AD/CVD proceedings that are ongoing on the effective date and all AD/CVD proceedings initiated on or after the effective date.

FOR FURTHER INFORMATION CONTACT: Nikki Kalbing at (202) 482–4343, Elio Gonzalez at (202) 482–3765, or Scott McBride at (202) 482–6292.

SUPPLEMENTARY INFORMATION:

General Background

On November 28, 2022, Commerce published a proposed modification of its regulations governing procedures related to APOs and service of documents submitted in AD and CVD proceedings and to procedural aspects of its AD/CVD regulations (hereafter, the *Proposed Rule*).[1] The *Proposed Rule* explained Commerce's proposal to make permanent certain changes to its service procedures that have been adopted on a temporary basis due to COVID–19, and proposed additional clarifications and corrections to its AD/CVD regulations, including updating the scope, circumvention, and covered merchandise referrals, and deleting from its regulations two provisions that have been invalidated by the Federal Circuit. Commerce received nine comments on the *Proposed Rule* and has addressed those comments below. After analyzing and carefully considering each comment it received in response to the *Proposed Rule,* Commerce has adopted the proposed modification with certain changes and is amending its regulations accordingly.

Explanation of Modifications From the Proposed Rule to the Final Rule

As we explained in the *Proposed Rule,* one of the purposes for modifying our regulations is to assist in making the administration of Commerce's AD/CVD proceedings more efficient by allowing parties to utilize available electronic or other efficient means of service. In this final rule, Commerce has determined to make certain modifications from the *Proposed Rule* in response to the comments received. With these modifications, as discussed further below, this final rule codifies the regulations proposed on November 28, 2022.

In this final rule, Commerce is amending proposed section 351.303(f)(1)(iii) to make service via electronic transmission for public documents and public versions of a business proprietary document, and service via secure electronic transmission for business proprietary documents, the default method of alternative service when service of such documents cannot be effectuated on ACCESS or when ACCESS is unavailable. This includes, for example, service of business proprietary documents filed under the one-day lag rule under section 351.303(c) (*i.e.,* non-final business proprietary documents filed on the due date under the one-day lag rule). As a result of adopting this change, Commerce is not adopting its proposed modification that parties file a standalone certificate of service for documents filed under the one-day lag rule under proposed section 351.303(c)(2)(i). Commerce is also modifying section 351.303(f)(2)(i) to permit electronic service of certain requests for review. In addition, Commerce is modifying section 351.305(c)(2) to specify that service of earlier-filed business proprietary submissions that are no longer available on ACCESS may be effectuated via secure electronic transmission. Commerce is also making some additional modifications for clarity and consistency. Finally, in this final rule, we are adopting the proposed amendments to the regulations discussed in the *Proposed Rule* for which we did not receive comments, or that we are not otherwise modifying, as discussed in greater detail below.

The following sections generally contain a brief discussion of each regulatory provision for which we received comments, a summary of the comments we received, and Commerce's responses to those comments. These sections contain further explanation of any changes Commerce is making in this final rule from the *Proposed Rule,* either in response to comments or that Commerce deems necessary for conforming to, or clarification of, the regulations, or for providing additional public benefit. The final section discusses additional comments suggesting other modifications to the ACCESS system and filing procedures that were not covered or addressed in the *Proposed Rule* and are therefore not included in this final rule.

Responses to Comments Received on the Proposed Rule

Commerce received nine comments on the *Proposed Rule.* Below is a summary of the comments, grouped by issue category, followed by Commerce's response.

Standalone Certificates of Service for Business Proprietary Documents

Proposed section 351.303(c)(2)(i) would require a party filing a business proprietary document on ACCESS to also file a separate, standalone, public certificate of service with its submission. Although the *Preamble* to

[1] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 87 FR 72916 (November 28, 2022) (*Proposed Rule*).

the *Proposed Rule* indicates that this provision would apply to business proprietary documents filed under the one-day lag rule, two commenters interpret the certificate of service requirement under section 351.303(c)(2)(i) as applying to any business proprietary filing. One commenter suggests that Commerce modify proposed section 351.303(c)(2)(i) to limit the standalone certificate of service requirement to only business proprietary documents filed under the one-day lag rule.

Several other commenters argue that any requirement to file a standalone certificate of service is burdensome, inefficient, costly, would clutter the docket, and would not necessarily provide same-day notice of a filing, because documents submitted close to 5:00 p.m. often do not appear on ACCESS until the next day. Another commenter argues that the standalone certificate of service would add little value if Commerce reinstates the requirement to serve documents submitted under the one-day lag rule and even if Commerce does not reinstate that service rule, the standalone certificate of service will only inform parties that the filing was made, which would become apparent anyway in one business day.

These commenters suggest several alternatives, including making technical changes to ACCESS to permit the one-day lag filing to appear on the ACCESS docket and digests, but not be viewable or downloadable, which would give parties notice of the filing without it becoming part of the official record. One commenter argues that Commerce should simply require a certificate of service with every public and proprietary filing. Another suggestion, further discussed below, is to require electronic service of documents filed under the one-day lag rule on the same day they are filed with Commerce, thereby obviating the need to file a standalone certificate of service.

Response: We clarify that the proposal to file standalone certificates of service only applies to documents submitted under the one-day lag rule and does not apply to all business proprietary documents. However, as explained below, we are amending the regulation to permit the service of one-day lag documents via secure electronic transmission. That will obviate the need to file a standalone certificate of service, because parties served via secure electronic transmission will be able to receive the documents the same day they are filed on ACCESS. Thus, we are removing from this final rule the provision of section 351.303(c)(2)(i) that would require the filing of a standalone certificate of service with the submission of business proprietary documents filed under the one-day lag rule.

Further, we are not adopting the suggestion that Commerce make one-day lag documents appear on the ACCESS docket and digests without being viewable or downloadable, as an alternative way of providing notice to parties that a one-day lag submission has been filed. As stated in the *Proposed Rule,* business proprietary documents filed under the one-day lag rule and containing non-final bracketing cannot be served via ACCESS using the same technology used for serving official record documents.[2] Similarly, ACCESS does not have the technical capability at this time to make these documents appear on the ACCESS docket and digests without being viewable or downloadable or becoming part of the official record. As stated above, we are amending the regulation to permit the service of one-day lag documents via secure electronic transmission, which will enable parties to receive the documents the same day they are filed on ACCESS. Therefore, we find it unnecessary to adopt this commenter's suggestion.

Service of Business Proprietary Documents, Public Documents, and Public Versions of Business Proprietary Documents via ACCESS

Most commenters express support for the proposal in proposed sections 351.303(f)(1)(i) and (ii)(A) that, in general, service of a public document, public version of a business proprietary document, and a business proprietary document will be effectuated on parties on the public and APO service lists upon filing of the submission on ACCESS, unless ACCESS is unavailable. Two commenters particularly support the proposal to move service requirements of case and rebuttal briefs from current section 351.303(f)(3)(i) (service of case and rebuttals briefs through personal service on the same day the brief is filed, or overnight mail or courier on the next day) to proposed section 351.303(f)(1), which would generally allow service through ACCESS.

However, some commenters express concern that due to the time it takes ACCESS to process filed documents and release digest notifications, parties are not able to download documents the same day they are filed and sometimes must wait a day or longer when documents are filed before a weekend or holiday. One commenter remarks that under the *Temporary Rule,*[3] case and rebuttal briefs were often not available on ACCESS the same day as filing, which was particularly problematic when filed under the one-day lag rule, which could result in parties not receiving case or rebuttal briefs until two days or more after the initial filing. Several commenters remark that ACCESS delays in making documents available shorten the time parties must respond to filings because certain response deadlines are triggered from the filing date. This in turn creates inefficiencies and compresses the time in which Commerce has to conduct a proceeding when parties file extension requests that Commerce must take the time to consider.

One commenter proposes that Commerce adjust ACCESS release times to ensure that documents are ''served'' on the same business day they are filed. Another commenter asserts that ACCESS delays in making documents available the same day as filing contravenes the statutory requirement under section 777(d) of the Act that ''[a]ny party submitting written information, including business proprietary information, to the administering authority . . . during a proceeding shall, *at the same time,* serve the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective order'' (emphasis added). This commenter suggests that Commerce revise proposed sections 351.303(f)(1)(i) and (f)(1)(ii)(A) to require that if ACCESS does not release a business proprietary, public, or public version of a document within one business day, then the submitter must effectuate service of the document upon the request of a party on the service list, using one of the alternative methods of service provided for under proposed section 351.303(f)(1)(iii). The commenter relatedly proposes to add a requirement to proposed section 351.303(f)(1)(iii) that if such an alternative method of service is used

[2] *See Proposed Rule,* 87 FR at 72920.

[3] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020) (*Temporary Rule*) (temporarily modifying certain requirements for serving documents containing business proprietary information in AD/CVD cases to facilitate the effectuation of service through electronic means for purposes of promoting public health and slowing the spread of COVID–19). The *Temporary Rule* was extended on May 18, 2020, and then again indefinitely on July 10, 2020. *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020); *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

when ACCESS does not release documents within one business day, the submitter would then be required to file a revised certificate of service pursuant to sections 351.303(c)(2)(i) and 351.303(f)(3).

Response: We understand the concerns expressed by some commenters that parties sometimes must wait a day or longer to download filed documents due to ACCESS delays. While most of the time documents are made available on the same day they are filed on ACCESS, this is not always achievable. Commerce endeavors to review and approve for release on ACCESS all documents submitted on the same day of filing, but this is sometimes not possible due to Commerce's limited resources, as well as other factors, including the timing of when the document is filed on ACCESS, and the volume of files that must be reviewed and approved. On balance, Commerce makes documents available on ACCESS as soon as possible, and many times, on the same day the document is filed.

Relatedly, we disagree with the comment that section 777(d) of the Act requires documents to be made available the same day as filing. The statute requires that a document be *served* at the same time as it is filed, but it does not require that the document be *received* by parties on the same day as filing.[4] Thus, the requirements of the statute are fulfilled for those situations under the revised regulations where service is effectuated upon filing on ACCESS, even if the document is not received by other parties on the same day as filing. This is consistent with how service operates under the current regulations where, for example, parties may serve certain documents by first-class mail on the day the document is filed, but the documents are not necessarily received on the same day as filing.

For the reasons discussed above, we are not adopting the suggestion that Commerce revise the regulations to provide that if ACCESS does not release a business proprietary, public, or public version of a document within one business day, the submitter must effectuate service using an alternative method of service and file a revised certificate of service. Such a rule would be difficult for Commerce to administer given its limited resources. Moreover, submitters would not be able to predict when the submission will be made available in ACCESS, and thus, may not know that they should effectuate service using an alternative method.

Alternative Methods of Service for Business Proprietary Documents, Public Documents, and Public Versions of Business Proprietary Documents

Several commenters raise concerns about mail or hand delivery as alternative methods of service authorized under proposed section 351.303(f)(1)(iii) when service of a public, business proprietary, or public version of a business proprietary document cannot be effectuated through ACCESS. Commenters argue that mail or hand delivery is regressive, contrary to the stated purpose of the *Proposed Rule* to make service more efficient, costly, burdensome, less reliable than electronic transmission, out of step with modern professional practice of electronic transmission, wasteful (when the documents will usually be scanned and the delivered hard copy destroyed), and inequitable in that it requires some personnel to be in the office rather than telework. Several commenters also point out that Commerce itself uses encrypted electronic platforms when transmitting business proprietary documents.

One commenter argues that proposed section 351.303(f)(1)(iii) places a greater burden on petitioners' firms, which often file submissions containing business proprietary information of multiple parties, and therefore are required to serve submissions by hand delivery or mail. Even if a petitioner is commenting on the business proprietary information of only one respondent, the petitioner only has the option of seeking consent to electronic service from that particular respondent and would still have to serve all other parties on the APO service list by hand or by mail. One commenter points out that for documents submitted under the one-day lag rule, service by mail or hand delivery does not necessarily result in parties receiving the documents on the day of filing, but rather after filing of the final business proprietary version on ACCESS.

Thus, several commenters propose that Commerce eliminate the requirement for service by mail or hand delivery and make electronic service through secure electronic transmission the default rule. Some commenters propose that in making electronic service the default rule, Commerce should require that when parties sign an APO or make an entry of appearance, they agree to electronic transmission via secure file transfer unless they specifically opt out and request service by hand delivery or mail on their forms. One commenter suggests that Commerce may also consider giving parties the option to express inability to receive certain types of electronic service. Another commenter recommends amending proposed section 351.303(f)(1)(iii) to establish that service of documents containing business proprietary information of a person who is not included on the APO service list shall be made via secure electronic file transfer unless the party has ''opted out'' in its entry of appearance, in which case service may be effectuated by hand delivery or first-class mail. One commenter similarly proposes that electronic service through encrypted platforms should also be available to *pro se* and non-APO represented parties.

Several commenters also argue that Commerce should specify certain security standards that electronic transmission platforms used to transmit documents are required to contain.

Some commenters argue that under proposed section 351.303(f)(1)(iii), Commerce should allow secure electronic transmission of a third party's business proprietary information, rather than just that of the sender and recipient and eliminate the requirement of consent from the recipient for service through secure electronic transmission. Commenters argue that the requirement to seek consent for electronic service of business proprietary documents that contain business proprietary information of the sender or the recipient only is burdensome. For certain documents that include issues and arguments relating to multiple parties (*e.g.,* case briefs), it may not be possible to include business proprietary information without preparing party-specific versions of the submission. Thus, commenters argue that the default rule for electronic service through secure electronic transmission (unless a party affirmatively opts out) would eliminate the inefficiency of requiring parties to obtain consent before using electronic file transfer and eliminate the need for multiple different versions of the same document depending on whether a party affirmatively consented to electronic service.

If Commerce permits service by unencrypted email, several commenters argue that such submissions should still only contain the recipient's or submitter's business proprietary information, and that all parties must consent. Another commenter proposes that, in addition to these requirements, the recipient must explicitly request an unencrypted email transmission.

[4] Section 777(d) of the Act states, ''Any party submitting written information, including business proprietary information, to the administering authority or the Commission during a proceeding shall, at the same time, *serve* the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective order'' (emphasis added).

One commenter raises concern regarding the requirement of section 351.303(f)(1)(ii)(B) that if a document contains the business proprietary information of a party who is not on the APO service list, the submitter of the document must serve the unrepresented party its own business proprietary information using one of the alternative service methods under section 351.303(f)(1)(iii). This requirement, according to the commenter, would require represented parties to reach an agreement with unrepresented parties on an alternative means of service, and potentially place the represented party in the position of needing to explain the regulations to the unrepresented party, which could lead to conflicts in which Commerce would need to intervene. The commenter proposes that Commerce amend section 351.303(f)(1)(ii)(B) to include specific language stating that Commerce will instruct, and will assume the responsibility for such instruction of, the parties as to the alternative means of service submitters must use under section 351.303(f)(1)(iii).

Another commenter requests clarification of the statements that public and business proprietary documents will be served via ACCESS ''unless ACCESS is unavailable'' and that an alternative method of service must be used if service ''cannot be effectuated on ACCESS (for any reason).'' Although the commenter interprets these phrases to encompass situations where a filing is not submitted through ACCESS (*e.g.,* ACCESS is temporarily unavailable due to technical failure) or a party is unable to receive service via ACCESS (*e.g.,* a *pro se* party that would not be able to receive service via ACCESS of a document containing only its own business proprietary information), the commenter notes that these phrases could be interpreted to encompass other situations. For example, there may be a situation in which a party files a document on ACCESS but due to a technical error the document is not made available via ACCESS, and the submitter is unaware and unable to know that it is necessary to take alternative measures. Thus, the commenter seeks clarification on the circumstances under which service would not be ''effectuated on ACCESS.''

Response: Upon consideration of these comments, we agree that electronic service via secure electronic transmission between parties should be the primary method of service when service cannot be effectuated on ACCESS or when ACCESS is unavailable. This approach is consistent with modern professional practice and would fulfill the goal of these regulatory amendments to make service more efficient. Thus, for this final rule we are amending section 351.303(f)(1)(iii) so that service via electronic transmission for public documents and public versions of business proprietary documents, and secure electronic transmission for business proprietary documents, is the default method of alternative service when service of such documents cannot be effectuated on ACCESS or when ACCESS is unavailable.

This default rule for electronic service will apply to APO-authorized, non-APO authorized, and *pro se* parties. Thus, non-APO authorized representatives and *pro se* parties generally will be permitted to transmit business proprietary information electronically, subject to additional restrictions as explained below. Accordingly, we find that the concern expressed by one commenter that a represented party may be put in a situation where it needs to explain the regulations to an unrepresented party is rendered moot by adoption of electronic transmission as the default method of alternative service under section 351.303(f)(1)(iii).

Because this is the default rule, parties generally will not need to affirmatively consent to receiving business proprietary information by electronic transmission. Service by mail or personal service [5] will continue to be an acceptable means of alternative service only in the very limited circumstance that a party does not have the capacity to send or receive documents electronically (*e.g.,* an interested party in a foreign country that does not have access to email). Because electronic service is the default rule, we are not adopting the proposal that parties be permitted to affirmatively opt out of electronic service in their entries of appearance and APO applications.

We also clarify that in making electronic service the default rule, APO-authorized representatives will be permitted to serve documents on other APO-authorized representatives that include third-party business proprietary information, and not just that of the sender or the recipient, and the recipient need not affirmatively consent to service (as was required in the *Proposed Rule*). That is, any APO-authorized representative may serve documents that include any business proprietary information (including that of a third party) on another APO-authorized representative. This alleviates the concern expressed by some commenters that there is a greater burden on petitioners' firms because they often file submissions containing the business proprietary information of multiple parties. However, the APO-authorized representative must ensure that when serving documents on non-APO authorized representatives and *pro se* parties, the documents contain only the business proprietary information of the non-APO authorized representative or of the *pro se* party.

When compared to APO-authorized representatives, the procedures differ for non-APO authorized representatives and *pro se* parties where electronic service is the default rule. Non-APO authorized representatives and *pro se* parties will be permitted to serve documents containing the business proprietary information of the non-APO represented party or the *pro se* party (respectively) on APO-authorized representatives.[6] They may also receive service of documents containing their own business proprietary information.

We strongly encourage the transmission of business proprietary information through secure electronic transmission. However, we will permit service via unsecure electronic transmission (*i.e.,* electronic mail) if an APO-authorized representative, *pro se* party, or non-APO authorized representative of a party requests service via unsecure electronic transmission, the recipient consents, and the document contains only the business proprietary information of the submitter or recipient. If the business proprietary document is encrypted, then consent is not required.

Given rapid changes in technology, we do not find it practical to set minimum security standards in these regulations. Thus, we are not adopting the proposal to specify a particular encryption level for secure electronic transmission in the regulation but rather advise that generally, business proprietary documents should be served through platforms that use secure electronic transmission (*e.g.,* encrypted emails, File Transfer Protocol Secure (FTPS), or secure file share such as Kiteworks, DocuSign, or Google Drive).

[5] For consistency with our current regulations, in this final rule we have adopted the term ''personal service'' instead of ''hand delivery,'' which was used in the *Proposed Rule.* By reverting to the term in our current regulations, we indicate that methods of personal service that have been used under the current regulations continue to be acceptable as alternative methods of service when secure electronic transmission is not possible.

[6] We note that a non-APO authorized representative or *pro se* party may also serve its own client's or its own business proprietary information (respectively) on anyone, but for purposes of our proceedings, they would normally serve APO-authorized representatives.

However, more specific security standards may be added to the ACCESS Handbook and updated from time to time as technological changes necessitate.

In response to the comment that language describing ACCESS as ''unavailable'' under sections 351.303(f)(1)(i) and (f)(1)(ii)(A) could be interpreted to include multiple situations, we have amended the regulation to add a requirement that an alternative form of service in accordance with section 351.303(f)(1)(iii) is needed when a submission is filed manually, including bulky document filings, super bulky filings, and data files that exceed the file size limit. The reason for this change is to expedite the availability of these submissions, which require additional processing. In some cases, as a commenter mentioned, there may be delays in making those files available, especially in situations where the ACCESS team may need to find an alternative method of releasing the files. In our experience, the transmittal of extremely large collections of documents has, at times, required a corresponding large use of ACCESS resources. The use of such resources has, in turn, caused the ACCESS system to operate at much slower speeds, resulting in extensive download times for parties and forcing them to download documents during non-peak times. Considering the above, Commerce has determined that for such manual filings (including bulky document filings, super bulky filings and data files exceeding the file size limit), that the submitter who is filing the submission in this alternative manner also be required to serve the submission in an alternative manner in accordance with section 351.303(f)(1)(iii). This additional step for the submitter to ensure timely service will be offset by the time savings the submitter will gain in manually filing its voluminous submission. This requirement also addresses the concerns of those commenters who expressed concern about receiving access to submissions in a timely manner.

We also clarify that ACCESS is considered ''unavailable'' when, due to a technical failure, ACCESS is unable to accept electronic filings, as specified in the Handbook on Electronic Filing Procedures, which is available on the ACCESS website at *https://access.trade.gov* (via the ACCESS Handbook link). If ACCESS is unable to accept electronic filings for more than one hour between the hours of 12:00 p.m. and 4:30 p.m. Eastern Time, or for any duration of time between the hours of 4:31 p.m. and 5:00 p.m. Eastern Time, Commerce will allow a document or data to be filed manually. In such a situation, if a submitter files a submission manually, it must also serve the submission on the parties to the proceeding in accordance with section 351.303(f)(1)(iii). Thus, generally, if a submitter must file a submission manually, the submitter must also use an alternative form of service. The reason for requiring alternative service is that a technical failure that requires manual filing will cause a delay in service, as discussed above. At the time of filing, the submitter will be aware of the technical failure and therefore should also be aware of the service obligations for manual filings.

If a technical failure occurs, but a submitter already successfully filed a submission electronically before the technical failure occurred, the submitter does not need to serve the submission using an alternative method. Rather, the would-be recipients should wait until the ACCESS technical failure has been resolved, and the submissions will be available at that time. If Commerce determines that the technical failure will be lengthy in duration given the severity of the problem or a large backlog of filings to process, Commerce may direct parties to seek service copies from one another.

Finally, we clarify what is meant by situations when service ''cannot be effectuated on ACCESS'' under section 351.303(f)(1)(iii). There are certain situations in which ACCESS does not have the capability to effectuate service based on the way the system is structured. There are two categories that determine who and what gets served. Who gets served is determined by the individuals on the APO and public service lists. What gets served is determined by the documents that are on the record. A party to the proceeding can use these guidelines to understand whether, at the time of filing, service of a particular submission can be effectuated on ACCESS.

For example, a document submitted under the one-day lag rule under section 351.303(c)(2)(i) is not considered a record document due to the non-final nature of the designation of business proprietary information; therefore, service cannot be effectuated on ACCESS. Another example is a document that contains the business proprietary information of a person who is not included on the APO service list. Under section 351.303(f)(1)(ii)(B), service cannot be effectuated on ACCESS for that person and must be made in accordance with section 351.303(f)(1)(iii). A further example is a situation where a representative of an interested party is granted APO access after other parties to the proceeding have already filed submissions to the record and they are no longer available for download on ACCESS, as addressed in section 351.305(c)(2).

Other situations in which a document is not immediately made available on ACCESS are not situations in which service cannot be effectuated on ACCESS.

Reinstatement of Service Requirement for Documents Filed Under the One-Day Lag Rule

Commenters are divided in their support of Commerce's proposed reinstatement of the requirement that business proprietary documents filed under the one-day lag rule be served on interested parties. Commenters who oppose the reinstatement of the service requirement argue that it is burdensome (even if done by electronic means); creates inconsistencies; increases the likelihood of errors, including APO violations; and does not allow the flexibility to manage varied situations, such as another pandemic, inclement weather, and increased telework. One commenter argues that the burden of service of one-day lag documents is greater for petitioners' firms, because they are more likely to file submissions containing multiple parties' business proprietary information, and such documents cannot be served by electronic means under the *Proposed Rule.*

Several commenters address Commerce's observation in the *Proposed Rule* that under the waiver of the service requirement for one-day lag submissions under the *Temporary Rule,* parties were sometimes not aware of a filing. One commenter notes that any uncertainty as to whether a document has been filed under the one-day lag rule lasts only about a day, and parties have been dealing with that uncertainty now for over two years under the *Temporary Rule.* This commenter points out that any inconvenience in having a tighter rebuttal period could be alleviated by maintaining the extension of the time for rebuttal briefs from five to seven days, as adopted under the *Temporary Rule.* Another commenter points out that lack of same-day notice of the filing of a business proprietary document under the one-day lag rule also occurred before the *Temporary Rule,* for example when first-class mail delivery of the document arrived the next business day after filing with Commerce. Some commenters note that under the proposed alternative methods of service under section 351.303(f)(1)(iii), one-day lag filings

might still be received after the final bracketed version is released by Commerce because of delays in the type of service used (*e.g.,* first-class mail). Thus, several commenters conclude that the benefits of notice through reinstatement of the service requirement for one-day lag documents do not outweigh the burdens and risks.

Other commenters propose measures to address Commerce's concern that parties are not aware of the filing of documents under the one-day lag rule, without reinstating the service requirement for one-day lag documents. For example, one commenter suggests that Commerce adopt the proposal under section 351.303(c)(2)(i) to file a standalone certificate of service for documents filed under the one-day lag rule that would include the name of the submission and the party for whom it was filed. This would effectively be a ''certificate of non-service'' because the documents would not be served but would give parties notice of the filing of the one-day lag document through the ACCESS public service list. This commenter also proposes that parties be permitted to file the ''certificate of non-service'' before the filing of the document on ACCESS to reduce the burden on parties filing multiple submissions on the same day, to help ensure submissions are made in their entirety prior to the filing deadline, and to increase the likelihood that other parties will be made aware of the filing on the actual filing day. Alternatively, the commenter proposes that Commerce permit that the ''certificate of non-service'' be filed two hours after the deadline for the one-day lag document (*e.g.,* 7:00 p.m. for a 5:00 p.m. filing deadline), and still be deemed timely.

One commenter suggests that Commerce itself release the one-day lag submission under the same procedures as the release of the final bracketed business proprietary versions. Another commenter suggests that Commerce could require that final business proprietary and public versions of one-day lag documents contain a header indicating whether the one-day lag rule was used, an approach that is similar to the current ''bracketing not final'' designations on documents filed under the one-day lag rule.

Several other commenters support reinstatement of the service requirement for documents filed under the one-day lag rule. One commenter states that Commerce's concern over parties not receiving notice of filings of one-day lag documents under the *Temporary Rule's* waiver of service requirements was borne out by its own experiences. That commenter states that parties often did not know if a document had been filed under the one-day lag rule, or a party had missed the deadline. Moreover, because parties did not receive the document the day it was filed with Commerce, they missed a day or more of the regulatory rebuttal period, requiring the filing of extension requests. Another commenter supports the reinstatement of the service requirement of documents filed under the one-day lag rule because it prevents parties from delaying service of documents through the one-day lag rule, and because it enables other parties to ensure that the only changes made between the document filed by the deadline under the one-day lag rule and the final document relate to identification of business proprietary information.

Some commenters support the reinstatement of the service requirement for documents filed under the one-day lag rule, but object to the requirement that such service be effectuated outside of ACCESS. These commenters suggest that documents submitted under the one-day lag rule should be deemed served on parties on the APO service list when filed on ACCESS. Several parties address Commerce's explanation in the *Proposed Rule* that a business proprietary document filed under the one-day lag rule contains non-final bracketing that is not treated as an official record document, and thus cannot be served via ACCESS with the same technology used for serving official record documents. Some commenters suggest that Commerce make technical changes to ACCESS to prevent one-day lag filings from becoming part of the official record, including permitting parties 14 days to download business proprietary documents filed under the one-day lag rule before deleting the documents from the record.

Several commenters state that if documents filed under the one-day lag rule are not served via ACCESS, parties should be permitted to serve such documents via secure electronic transmission on the day the document is filed with Commerce, and object to any requirement that service be completed via first-class mail or hand delivery as inefficient, costly, and burdensome on parties. These commenters argue that parties often do not receive the documents filed under the one-day lag rule before the final proprietary version is filed on ACCESS because documents served by such means are not always received on the same day as filing. One commenter proposes that documents filed under the one-day lag rule may be served via email if all parties agree, and that first-class mail or hand delivery should only be required when a party explicitly requests that method of service. Other commenters state that electronic service of one-day lag documents would obviate the need for the standalone public certificate of service requirements under proposed section 351.303(c)(2)(i).

One commenter notes that because the bracketing in one-day lag filings is only provisional, an attorney may not be able to share it with a client until the final business proprietary version is filed. The commenter indicates that delays in receipt when documents are served via first-class mail are particularly problematic with respect to case and rebuttal briefs, and suggests that Commerce could require that business proprietary case and rebuttal briefs served under the one-day lag rule be served by hand delivery or overnight mail or courier, and that Commerce could set an earlier deadline for submission of the final proprietary and public versions of a document submitted under the one-day lag rule. According to this commenter, setting an earlier deadline would result in a greater likelihood that the submissions would be ''approved'' and available to other parties on ACCESS on the same day.

Finally, two commenters argue that if Commerce reinstates the service requirement for business proprietary documents filed under the one-day lag rule, service should only be made on parties on the APO service list, and not on *pro se* or non-APO authorized parties. The commenters argue that to require service of such documents to non-APO authorized parties before the final bracketing is checked creates significant risk of an APO violation, particularly when submissions contain the business proprietary information of multiple parties. These commenters argue that this undermines the purpose of the one-day lag rule to protect business proprietary information.

Response: Upon consideration of these comments, we are adopting our proposal to reinstate the requirement that a business proprietary document filed on the due date under the one-day lag rule must also be served on the persons on the APO service list and those non-APO authorized parties whose business proprietary information is contained in the document. However, as discussed above, for this final rule we are amending section 351.303(f)(1)(iii) so that electronic service via secure electronic transmission is the default method of alternative service, including for business proprietary documents filed under the one-day lag rule. We believe

that reinstating the service requirement of such documents eliminates uncertainties that resulted from waiving service during the past three years under the *Temporary Rule* and helps with providing parties as much time as possible with such documents to protect their interests. In our view, this fulfills the goal of these regulatory amendments to make service more efficient and addresses many of the concerns raised regarding the burden of other forms of service, such as first-class mail or personal service, while also maintaining flexibility. Although some commenters oppose the reinstatement of service requirements for documents filed under the one-day lag rule, we are not convinced that, overall, the benefits of not being required to serve these documents under the *Temporary Rule* outweigh the benefits of requiring service. This is particularly true when considering that Commerce is amending the regulations to permit such documents to be served via secure electronic transmission, which greatly reduces the burdens expressed by certain commenters.

Further, as discussed above, because we are amending the regulation to permit the service of one-day lag documents via secure electronic transmission, we are removing the requirement to file a standalone certificate of service from this final rule. For similar reasons, we determine it is not necessary to adopt one commenter's alternative proposal to require a ''certificate of non-service.'' Because we are reinstating the service requirements for business proprietary documents filed under the one-day lag rule, filing a ''certificate of non-service'' would not be needed because such documents would in fact be served.

Allowing electronic service of business proprietary documents filed under the one-day lag rule removes the uncertainty parties may have experienced over whether a document was filed under the one-day lag rule or whether the document was untimely filed or not filed at all. Having the submitter serve parties via secure electronic service will also help to reduce delays in service, enable parties to ensure that any changes made to the final business proprietary document are only related to bracketing, and increase the likelihood that parties will receive the documents the same day they are filed on ACCESS. Accordingly, we find it unnecessary to adopt the suggestion that the time for submitting rebuttal briefs be increased from five to seven days as a method of relieving the potential compressed period for submitting rebuttal briefs that may result from delays in receiving documents filed under the one-day lag rule. For similar reasons, we also find it unnecessary to adopt the suggestion that Commerce set an earlier deadline for the submission of final business proprietary and public versions of documents submitted under the one-day lag rule as a potential way for these documents to be approved faster on ACCESS. We also note that neither of these suggestions are responsive to the proposed regulatory amendments in the *Proposed Rule,* and thus, such modifications would be outside the scope of this rulemaking.

Moreover, as discussed above, in making electronic service the default rule, APO-authorized representatives will be permitted to serve third-party business proprietary information, not just that of the sender or the recipient, and the recipient need not affirmatively consent to service. This alleviates the concern expressed by some commenters that there is a greater burden on petitioners' firms that often file submissions containing the business proprietary information of multiple parties, because these parties will be able to electronically serve documents containing the business proprietary information of multiple parties.

Some commenters suggest that Commerce itself should release non-final business proprietary documents filed under the one-day lag rule by making technical changes to ACCESS to prevent such documents from becoming part of the official record. These commenters suggest that this would be a method of allowing ACCESS to effectuate service of such documents without reinstating service requirements outside of ACCESS. As stated in the *Proposed Rule,* business proprietary documents filed under the one-day lag rule and containing non-final bracketing cannot be served via ACCESS using the same technology used for serving official record documents.[7] Should ACCESS technology capabilities change in the future, we will consider whether service of non-final bracketing documents can be effectuated upon filing on ACCESS. At this time, however, we believe that permitting electronic service of non-final bracketing documents is efficient, consistent with modern professional practice, and sufficiently addresses the various concerns raised by parties.

Finally, certain commenters argue that if Commerce reinstates service requirements for non-final business proprietary documents filed under the one-day lag rule, such requirement should only apply to persons on the APO service list and not on non-APO authorized representatives or *pro se* parties because it creates a significant risk of an APO violation. We recognize there may be some risk of a potential APO violation if parties do not properly bracket business proprietary information in a non-final business proprietary submission. At the same time, we are cognizant that non-APO authorized representatives and *pro se* parties would benefit from service of such documents in defending their interests during a segment of the proceeding. We remind parties of their responsibility to properly safeguard business proprietary information.[8] Commerce's regulations have required parties to identify whose business proprietary information is contained in a submission; this is not a new requirement.[9] If a submitter cannot identify certain business proprietary information as definitively belonging to a non-APO authorized representative or *pro se* party, then it is the submitter's responsibility to bracket the information accordingly in the non-final business proprietary submission and consider whether service of the submission needs to be made. When preparing the final version of the submission, the submitter should assess whether the bracketing should be updated or corrected. On balance, we believe it is important to reinstate service requirements for non-final business proprietary documents filed under the one-day lag rule on all parties, whether or not they are APO-authorized, and are adopting this change.

To be clear, the requirement to serve business proprietary documents filed under the one-day lag rule applies to non-final business proprietary documents. For final business proprietary documents, with or without bracketing corrections, and public versions of final business proprietary documents, the general rule applies that ACCESS will effectuate service, as outlined elsewhere in this final rule and in the *Proposed Rule.*

Request for Review

Two commenters express concern over the requirement in proposed section 351.303(f)(2)(i) that requests for an expedited AD review, an administrative review, a new shipper review, or a changed circumstances review be served by personal service or first-class mail on each exporter or producer specified in the request. One

[7] *See Proposed Rule,* 87 FR at 72920.

[8] *See, e.g.,* 19 CFR 351.305(a)(1) and 351.306(d).

[9] *See* 19 CFR 351.306(c)(1)–(2) (requiring a submitting party to identify, contiguously with each item of business proprietary information, the person that originally submitted the item).

commenter argues that such delivery methods are inefficient, costly, and prejudice small- and medium-sized enterprises (particularly for overseas deliveries), and that publicly listed addresses are sometimes undeliverable or refuse service. Moreover, the commenter notes that the **Federal Register** already provides public notice of the initiation of such proceedings. Thus, the commenter proposes that Commerce permit parties to serve requests for these reviews through electronic means, unless there are no means for electronic service.

Response: Upon consideration of these comments, we are amending the regulation so that requests for an expedited AD review, an administrative review, a new shipper review, or a changed circumstances review may be served via electronic service. Service of documents containing business proprietary information must be effectuated in accordance with the rules provided elsewhere in this final rule. Although the **Federal Register** provides public notice of the initiation of these proceedings, there is a delay between when parties may request these reviews and when Commerce will initiate the proceeding itself and publish the **Federal Register** notice. There is a benefit to service of requests for these types of proceedings because it may inform another party's decision whether to participate in the proceeding or to potentially comment on another party's request prior to a decision by Commerce to initiate the proceeding. Therefore, we are maintaining the requirement to serve requests for these types of reviews but are permitting parties to serve these requests via electronic service.

APO Applications Using Electronic Form ITA–367

The only commenter remarking on this provision in proposed section 351.305(b)(2) supports the codification of the APO application process to use electronic Form ITA–367, because it would expedite the APO application approvals by Commerce, as well as service of applications and updated service lists.

Response: Upon consideration of this comment, we have made no changes to this provision from the *Proposed Rule.*

Service of Business Proprietary Documents to Newly Authorized APO Representatives

Several commenters support the general proposal in proposed section 351.305(c)(2) that representatives that are newly granted APO access would be responsible for requesting business proprietary documents that are no longer available on ACCESS from the party that made the business proprietary submission. However, one commenter notes that proposed section 351.305(c)(2) does not indicate the acceptable means of service for such documents, or whether a certificate of service would be required. Thus, the commenter suggests that Commerce amend subparagraphs (c)(2)(i) and (ii) to state that parties may agree upon any acceptable means of service listed in section 351.303(f)(1)(iii), and to state that a certificate of service is not required.

Response: Upon consideration of these comments, we clarify that service via secure electronic transmission is permitted and that a certificate of service is not required and are amending this regulation accordingly.

Service of Business Proprietary Information

Commenters generally support the proposal in proposed section 351.306(c)(2) that when a party is not represented, or when its representative is not APO-authorized, another party need only serve that party or its representative its own business proprietary information, and not the business proprietary information of other parties. However, one commenter notes that in some instances a party files its own submission even when it is otherwise represented, and requests that Commerce clarify that a submitting party need only serve a party's representative rather than serve both the party and its representative.

Another commenter requests that Commerce limit the service exceptions under section 351.306(c)(2) to parties and representatives who are not eligible to obtain approval for access under an APO. The commenter states that if a U.S. attorney is eligible to obtain APO access, it should be required to do so to receive business proprietary information, including that of its client. If the attorney is eligible to obtain APO access but simply chooses not to, the commenter asserts other parties should not be required to serve the attorney under the service exceptions under section 351.306(c)(2) for *pro se* parties and non-APO authorized representatives and suggests that Commerce could require that parties indicate in their entry of appearance if they are not eligible to submit an APO application and the reasons why they are ineligible to submit an APO application.

Response: We clarify that a submitting party is required to serve the party or parties that are on the service list. If a party is not on the service list, but its representative is, the submitting party is only required to serve the party's representative, even if the party itself, and not its representative, filed the submission.

In addition, we decline to adopt the suggestion that Commerce limit service exceptions under this provision to parties that are not eligible to obtain approval for access to an APO. There is no requirement to file an APO application, and we do not view it as appropriate to require a person to file an APO application simply because that person is an attorney. As such, we are not making changes to the regulations to limit the service exceptions in this manner.

Labor Factors of Production Valuation

One commenter argues that if Commerce adopts its proposal to remove paragraph (c)(3) and redesignate paragraph (c)(4) as paragraph (c)(3) under proposed section 351.408, Commerce should also remove the reference to current paragraph (c)(3) in paragraph (c)(2). The commenter notes that paragraph (c)(2) currently reads: ''Except for labor, as provided in paragraph (d)(3) of this section, the Secretary normally will value all factors in a single surrogate country.'' The commenter argues that for consistency, that paragraph could be revised to state: ''The Secretary normally will value all factors in a single surrogate country.''

Response: We agree and are amending the regulation accordingly.

Other Suggestions From Commenters

Commenters recommended several modifications to the ACCESS system and filing procedures that were not covered or addressed in the *Proposed Rule.*

1. Commenter Suggestions Related to ACCESS

Commenters suggested a variety of changes to ACCESS, including:

- creating a separate docket and separate notification digests for procedural documents such as APO applications, entries of appearance, and amendments thereto;
- adding additional notification digests;
- adding a ''released date'' column to show the date and time a document is made available to parties;
- extending the number of days business proprietary documents are available on ACCESS to 30 days;
- increasing the number of ACCESS proxy users, including a proposal to create firm-wide proxies;
- increasing the ACCESS file-size limit;

- increasing the number of files available for batch download;
- requiring optimization of PDFs for maximum compression; and
- consolidating all parts of a filing under one barcode.

Response: We note that these suggestions are not responsive to the proposed regulatory amendments in the *Proposed Rule.* Thus, such modifications would be outside the scope of this rulemaking. However, Commerce is committed to improving the ACCESS system by implementing features that will foster efficiency and ease of use for the most users while staying within Commerce's resource constraints. As such, we will take these proposals into consideration and may address one or more in possible future rulemakings. To the extent consideration or implementation of certain new features would not require notice and comment, Commerce will consider these proposals and any new features adopted will be announced on the ACCESS website at *https://access.trade.gov* and included in the ACCESS Handbook.

2. Additional Commenter Suggestions

Commenters also proposed three additional changes to Commerce's filing procedures that were not included in the *Proposed Rule:* amending section 351.309(d) to require rebuttal briefs to be due seven days after the due date for case briefs, rather than the current five days; amending section 351.303(b)(1) to set a filing deadline of 12:00 a.m. Hawaiian Standard Time, or at a minimum changing to a midnight Eastern Time deadline rather than 5:00 p.m. Eastern Time; and amending section 351.303(b)(1) to deem the time of filing of a submission as the time the party begins the filing process, rather than the end time at which it is filed in its entirety.

Response: Commerce has not adopted these three recommendations in this final rule. The *Proposed Rule* did not cover or address these regulatory provisions in sections 351.309(d) and 351.303(b)(1), and the comments are outside the scope of the modifications and additions to regulations that we proposed for comment.

Classification

Executive Order 12866

OMB has determined that this rule is not significant for purposes of Executive Order 12866.

Executive Order 13132

This rule does not contain policies with federalism implications as that term is defined in section 1(a) of Executive Order 13132, dated August 4, 1999 (64 FR 43255 (August 10, 1999)).

Paperwork Reduction Act

This rule does not contain a collection of information subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this rule, if adopted, would not have a significant economic impact on a substantial number of small business entities under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b). The factual basis for the certification was published with the *Proposed Rule* and is not repeated here. We received no comments and were not made aware of any positions of opposition to the certification. As a result, a Final Regulatory Flexibility Analysis was not required and none was prepared.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping, Business and industry, Cheese, Confidential business information, Countervailing duties, Freedom of information, Investigations, Reporting and recordkeeping requirements.

Dated: September 25, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

For the reasons stated in the preamble, the Department of Commerce amends 19 CFR part 351 as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for 19 CFR part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538.

■ 2. In § 351.103, revise paragraphs (a) and (b) to read as follows:

§ 351.103 Central Records Unit and Administrative Protective Order and Dockets Unit.

(a) Enforcement and Compliance's Central Records Unit maintains a Public File Room in Room B8024, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230. The office hours of the Public File Room are between 8:30 a.m. and 5 p.m. Eastern Time on business days. Visitors to the Public File Room should consult the ACCESS website at *https://access.trade.gov* for information regarding in-person visits. Among other things, the Central Records Unit is responsible for maintaining an official and public record for each antidumping and countervailing duty proceeding (*see* § 351.104).

(b) Enforcement and Compliance's Administrative Protective Order and Dockets Unit (APO/Dockets Unit) is located in Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230. The office hours of the APO/Dockets Unit are between 8:30 a.m. and 5 p.m. Eastern Time on business days. Visitors to the APO/Dockets Unit should consult the ACCESS website at *https://access.trade.gov* for information regarding in-person manual filings. Among other things, the APO/Dockets Unit is responsible for receiving submissions from interested parties, issuing administrative protective orders (APOs), maintaining the APO service list and the public service list as provided for in paragraph (d) of this section, releasing business proprietary information under APO, and conducting APO violation investigations. The APO/Dockets Unit also is the contact point for questions and concerns regarding claims for business proprietary treatment of information and proper public versions of submissions under §§ 351.105 and 351.304.

* * * * *

■ 3. In § 351.104, revise paragraph (a)(2)(ii)(A) to read as follows:

§ 351.104 Record of proceedings.

(a) * * *

(2) * * *

(ii) * * *

(A) The document, although otherwise timely, contains untimely filed new factual information (see § 351.301(c));

* * * * *

§ 351.204 [Amended]

■ 4. In § 351.204, remove paragraph (d)(3) and redesignate paragraph (d)(4) as paragraph (d)(3).

■ 5. In § 351.225, revise paragraphs (b), (d)(1), (e)(2), and (f)(1) and (2) to read as follows:

§ 351.225 Scope rulings.

* * * * *

(b) *Self-initiation of a scope inquiry.* If the Secretary determines from available information that an inquiry is warranted to determine whether a product is covered by the scope of an order, the Secretary may initiate a scope

inquiry by publishing a notice of initiation in the **Federal Register**.

* * * * *

(d) *Initiation of a scope inquiry and other actions based on a scope application*—(1) *Acceptance and Initiation of a scope inquiry ruling application.* Except as provided under paragraph (d)(2) of this section, within 30 days after the filing of a scope application, the Secretary will determine whether to accept or reject the scope ruling application and to initiate or not initiate a scope inquiry, or, in the alternative, paragraph (d)(1)(ii) will apply.

* * * * *

(e) * * *

(2) *Extension.* The Secretary may extend the deadline in paragraph (e)(1) of this section by no more than 180 days, for a final scope ruling to be issued no later than 300 days after initiation, if the Secretary determines that good cause exists to warrant an extension. Situations in which good cause has been demonstrated may include:

* * * * *

(f) * * *

(1) Within 30 days after the Secretary's self-initiation of a scope inquiry under paragraph (b) of this section, interested parties are permitted one opportunity to submit comments and factual information addressing the self-initiation. Within 14 days after the filing of such comments, any interested party is permitted one opportunity to submit comments and factual information submitted by the other interested parties.

(2) Within 30 days after the initiation of a scope inquiry under paragraph (d)(1) of this section, an interested party other than the applicant is permitted one opportunity to submit comments and factual information to rebut, clarify, or correct factual information contained in the scope ruling application. Within 14 days after the filing of such rebuttal, clarification, or correction, the applicant is permitted one opportunity to submit comments and factual information to rebut, clarify, or correct factual information submitted in the interested party's rebuttal, clarification or correction.

* * * * *

■ 6. In § 351.226, revise paragraphs (b), (d)(1), (f)(1) and (2), and (l)(2)(ii) to read as follows:

§ 351.226 Circumvention Inquiries

* * * * *

(b) *Self-initiation of a circumvention inquiry.* If the Secretary determines from available information that an inquiry is warranted into the question of whether the elements necessary for a circumvention determination under section 781 of the Act exist, the Secretary may initiate a circumvention inquiry by publishing a notice of initiation in the **Federal Register**.

* * * * *

(d) * * *

(1) *Initiation of circumvention inquiry.* Except as provided under paragraph (d)(2) of this section, within 30 days after the filing of a request for a circumvention inquiry, the Secretary will determine whether to accept or reject the request and whether to initiate or not initiate a circumvention inquiry. If it is not practicable to determine whether to accept or reject a request or initiate or not initiate within 30 days, the Secretary may extend that deadline by an additional 15 days.

* * * * *

(f) * * *

(1) Within 30 days after the Secretary's self-initiation of a circumvention inquiry under paragraph (b) of this section, interested parties are permitted one opportunity to submit comments and factual information addressing the self-initiation. Within 14 days after the filing of such comments, any interested party is permitted one opportunity to submit comments and factual information submitted by the other interested parties.

(2) Within 30 days after the initiation of a circumvention inquiry under paragraph (d)(1) of this section, an interested party other than the applicant is permitted one opportunity to submit comments and factual information to rebut, clarify, or correct factual information contained in the scope ruling application. Within 14 days after the filing of such rebuttal, clarification, or correction, the applicant is permitted one opportunity to submit comments and factual information to rebut, clarify, or correct factual information submitted in the interested party's rebuttal, clarification, or correction.

* * * * *

(1) * * *

(2) * * *

(ii) The Secretary will direct the Customs Service to begin the suspension of liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the product not yet suspended, entered, or withdrawn from warehouse, for consumption on or after the date of the publication of the notice of initiation of the circumvention inquiry; and

* * * * *

■ 7. In § 351.227, revise paragraphs (b) and (d)(1) to read as follows:

§ 351.227 Covered merchandise referrals.

* * * * *

(b) *Actions with respect to covered merchandise referral.* (1) Within 20 days after acknowledging receipt of a covered merchandise referral from the Customs Service pursuant to section 517(b)(4)(A)(i) of the Act that the Secretary determines to be sufficient, the Secretary will take one of the following actions.

(i) Initiate a covered merchandise inquiry; or

(ii) If the Secretary determines upon review of the covered merchandise referral that the issue can be addressed in an ongoing segment of the proceeding, such as a scope inquiry under § 351.225 or a circumvention inquiry under § 351.226, rather than initiating the covered merchandise inquiry, the Secretary will address the covered merchandise referral in such other segment.

(2) The Secretary will publish a notice of its action taken with respect to a covered merchandise referral under paragraph (b)(1) of this section in the **Federal Register**.

* * * * *

(d) * * *

(1) Within 30 days after the date of publication of the notice of an initiation of a covered merchandise inquiry under paragraph (b)(1) of this section, interested parties are permitted one opportunity to submit comments and factual information addressing the initiation. Within 14 days after the filing of such comments, any interested party is permitted one opportunity to submit comment and factual information to rebut, clarify, or correct factual information submitted by the other interested parties.

* * * * *

■ 8. In § 351.301, revise paragraphs (c)(2)(vi) and (c)(3)(iv) to read as follows:

§ 351.301 Time limits for submission of factual information.

* * * * *

(c) * * *

(2) * * *

(vi) *Rebuttal, clarification, or correction of factual information submitted in support of allegations.* An interested party is permitted one opportunity to submit factual information to rebut, clarify, or correct factual information submitted in support of allegations 10 days after the date such factual information is filed with the Department.

(3) * * *

(iv) *Rebuttal, clarification, or correction of factual information submitted to value factors under § 351.408(c) or to measure the adequacy of remuneration under § 351.511(a)(2).* An interested party is permitted one opportunity to submit publicly available information to rebut, clarify, or correct such factual information submitted pursuant to § 351.408(c) or § 351.511(a)(2) 10 days after the date such factual information is filed with the Department. An interested party may not submit additional, previously absent-from-the-record alternative surrogate value information under this paragraph (c)(3)(iv). Additionally, all factual information submitted under this paragraph (c)(3)(iv) must be accompanied by a written explanation identifying what information already on the record of the ongoing proceeding the factual information is rebutting, clarifying, or correcting. Information submitted to rebut, clarify, or correct factual information submitted pursuant to § 351.408(c) will not be used to value factors under § 351.408(c).

* * * * *

■ 9. In § 351.303, revise paragraphs (c)(2)(ii) and (f)(1) through (3) to read as follows:

§ 351.303 Filing, document identification, format, translation, service, and certification of documents.

* * * * *

(c) * * *

(2) * * *

(ii) *Filing of final business proprietary document; bracketing corrections.* By the close of business one business day after the date the business proprietary document is filed under paragraph (c)(2)(i) of this section, a person must file the complete final business proprietary document with the Department. The final business proprietary document must be identical in all respects to the business proprietary document filed on the previous day except for any bracketing corrections and the omission of the warning ''Bracketing of Business Proprietary Information Is Not Final for One Business Day After Date of Filing'' in accordance with paragraph (d)(2)(v) of this section.

* * * * *

(f) *Service of copies on other persons*—(1) *In general.* Generally, a person filing a document with the Department simultaneously must serve a copy of the document on all other persons on the service list. Except as provided in § 351.202(c) (filing of petition), § 351.208(f)(1) (submission of proposed suspension agreement) and paragraph (f)(2) of this section:

(i) Service of a public document or public version of a business proprietary document is effectuated on the persons on the public service list upon the electronic filing of the submission in ACCESS, unless it is filed manually in accordance with paragraph (b)(2) of this section, or ACCESS is unavailable. If a submission is filed manually or ACCESS is unavailable, paragraph (f)(1)(iii) of this section is applicable.

(ii)(A) Service of a business proprietary document is effectuated on the persons on the APO service list upon the electronic filing of the submission in ACCESS, unless it is filed manually in accordance with paragraph (b)(2) of this section, or ACCESS is unavailable. If a submission is filed manually or ACCESS is unavailable, paragraph (f)(1)(iii) of this section is applicable. In addition, a business proprietary document submitted under the one-day lag rule under paragraph (c)(2)(i) of this section must be served in accordance with paragraph (f)(1)(iii) of this section.

(B) If the document contains the business proprietary information of a person who is not included on the APO service list, then service of such documents on that person cannot be effectuated on ACCESS and the submitter must serve that person its own business proprietary information in accordance with paragraph (f)(1)(iii) of this section. In addition, specific service requirements under § 351.306(c)(2) are applicable.

(iii) If service of a public document, public version of a business proprietary document, or a business proprietary document cannot be effectuated on ACCESS, the submitter must serve the recipient by electronic transmission. Generally, a business proprietary document must be served by secure electronic transmission. If the submitter is not able to use such a method, it may use an acceptable alternative method of service, including personal service, first-class mail, or electronic mail. Electronic mail may only be used as an acceptable alternative method of service for a business proprietary document under paragraph (f)(1)(ii)(B) of this section if the business proprietary document contains the business proprietary information of either the submitter or the recipient, with the consent of the recipient.

(2) *Service requirements for certain documents*—(i) *Request for review.* In addition to the certificate of service requirements under paragraph (f)(3) of this section, an interested party that files with the Department a request for an expedited antidumping review, an administrative review, a new shipper review, or a changed circumstances review must serve a copy of the request on each exporter or producer specified in the request and on the petitioner by the end of the anniversary month or within ten days of filing the request for review, whichever is later. Service may be made by an electronic transmission method if the interested party that files the request has an electronic mail address for the recipient; otherwise, service must be made by personal service or first-class mail. If the interested party that files the request is unable to locate a particular exporter or producer, or the petitioner, the Secretary may accept the request for review if the Secretary is satisfied that the party made a reasonable attempt to serve a copy of the request on such person.

(ii) *Scope and circumvention.* In addition to the certificate of service requirements under paragraph (f)(3) of this section, an interested party that files with the Department a scope ruling application or a request for a circumvention inquiry must serve a copy of the request on all persons included in the annual inquiry service list in accordance with §§ 351.225(n) and 351.226(n), respectively.

(3) *Certificate of service.* Each document filed with the Department must include a certificate of service listing each person served (including agents), the type of document served, and the date and method of service on each person. The Secretary may refuse to accept any document that is not accompanied by a certificate of service.

* * * * *

■ 10. In § 351.304, revise paragraphs (c)(1) and (2) to read as follows:

§ 351.304 Establishing business proprietary treatment of information.

* * * * *

(c) * * *

(1) A person filing a submission that contains information for which business proprietary treatment is claimed must also file a public version of the submission. The public version must be filed on the filing deadline for the business proprietary document. If the business proprietary document was filed under the one-day lag rule (*see* § 351.303(c)(2)), the public version and the final business proprietary document must be filed on the first business day after the filing deadline. The public version must contain a summary of the bracketed information in sufficient detail to permit a reasonable understanding of the substance of the information. If the submitting person claims that summarization is not possible, the claim must be

accompanied by a full explanation of the reasons supporting that claim. Generally, numerical data will be considered adequately summarized if grouped or presented in terms of indices or figures within 10 percent of the actual figure. If an individual portion of the numerical data is voluminous, at least one percent representative of that portion must be summarized. A submitter should not create a public summary of business proprietary information of another person.

(2) If a submitting party discovers that it has failed to bracket information correctly, the submitter may file a complete, corrected business proprietary document along with the public version (*see* § 351.303(c)(2)(ii) through (iii)). At the close of business on the day on which the public version of a submission is due under paragraph (c)(1) of this section, however, the bracketing of business proprietary information in the original business proprietary document or, if a corrected version is timely filed, the corrected business proprietary document will become final. Once bracketing has become final, the Secretary will not accept any further corrections to the bracketing of information in a submission, and the Secretary will treat non-bracketed information as public information.

* * * * *

■ 11. In § 351.305:
■ a. Revise the introductory text of paragraph (a);
■ b. Revise paragraph (b)(2) and (3), and remove paragraph (b)(4); and
■ c. Revise paragraph (c).

The revisions read as follows:

§ 351.305 Access to business proprietary information.

(a) *The administrative protective order.* The Secretary will place an administrative protective order on the record as follows: within two business days after the day on which a petition is filed or an investigation is self-initiated; within five business days after the day on which a request for a new shipper review is properly filed in accordance with §§ 351.214 and 351.303, an application for a scope ruling is properly filed in accordance with §§ 351.225 and 351.303, or a request for a circumvention inquiry is properly filed in accordance with §§ 351.226 and 351.303; within five business days after the day on which a request for a changed circumstances review is properly filed in accordance with §§ 351.216 and 351.303 or a changed circumstances review is self-initiated; or within five business days after initiating any other segment of a proceeding. The administrative protective order will require the authorized applicant to:

* * * * *

(b) * * *

(2) A representative of a party to the proceeding may apply for access to business proprietary information under the administrative protective order by submitting an electronic application available in ACCESS at *https://access.trade.gov* (Form ITA–367) to the Secretary. The electronic application will be filed and served in ACCESS upon submission. Form ITA–367 must identify the applicant and the segment of the proceeding involved, state the basis for eligibility of the applicant for access to business proprietary information, and state the agreement of the applicant to be bound by the administrative protective order. Form ITA–367 must be accompanied by a certification that the application is consistent with Form ITA–367 and an acknowledgment that any discrepancies will be interpreted in a manner consistent with Form ITA–367. An applicant must apply to receive all business proprietary information on the record of the segment of a proceeding in question but may waive service of business proprietary information it does not wish to receive from other parties to the proceeding.

(3) To minimize the disruption caused by late applications, an application should be filed before the first response to the initial questionnaire has been submitted. Where justified, however, applications may be filed up to the date on which the case briefs are due.

(c) *Approval of access under administrative protective order; administrative protective order service list; service of earlier-filed business proprietary submissions.* (1) The Secretary will grant access to a qualified applicant by including the name of the applicant on an administrative protective order service list. Access normally will be granted within five days of receipt of the application unless there is a question regarding the eligibility of the applicant to receive access. In that case, the Secretary will decide whether to grant the applicant access within 30 days of receipt of the application. The Secretary will provide by the most expeditious means available the administrative protective order service list to parties to the proceeding on the day the service list is issued or amended.

(2) After the Secretary approves an application, the authorized applicant may request service of earlier-filed business proprietary submissions of the other parties that are no longer available in ACCESS.

(i) For an application that is approved before the first response to the initial questionnaire is submitted, the submitting party must serve the authorized applicant those submissions within two business days of the request. Service must be made in accordance with section 351.303(f)(1)(iii). A certificate of service is not required.

(ii) For an application that is approved after the first response to the initial questionnaire is submitted, the submitting party must serve the authorized applicant those submissions within five business days of the request. Service must be made in accordance with section 351.303(f)(1)(iii). A certificate of service is not required. Any authorized applicant who filed the application after the first response to the initial questionnaire is submitted will be liable for costs associated with the additional production and service of business proprietary information already on the record.

* * * * *

■ 12. In § 351.306, revise paragraph (c)(2) to read as follows:

§ 351.306 Use of business proprietary information.

* * * * *

(c) * * *

(2) If a party to a proceeding is not represented, or its representative is not an authorized applicant, the submitter of a document containing that party's business proprietary information must serve that party or its representative, if applicable, with a version of the document that contains only that party's business proprietary information consistent with § 351.303(f)(1)(iii). The document must not contain the business proprietary information of other parties.

* * * * *

■ 13. In § 351.404, revise paragraph (d) to read as follows:

§ 351.404 Selection of the market to be used as the basis for normal value.

* * * * *

(d) *Allegations concerning market viability and the basis for determining a price-based normal value.* In an antidumping investigation or review, allegations regarding market viability or the exceptions in paragraph (c)(2) of this section, must be filed, with all supporting factual information, in accordance with § 351.301(c)(2)(i).

* * * * *

■ 14. In § 351.408:
■ a. Revise paragraph (c)(2).
■ b. Remove paragraph (c)(3) and redesignate paragraph (c)(4) as paragraph (c)(3).

The revisions read as follows:

§ 351.408 Calculation of normal value of merchandise from nonmarket economy countries.

* * * * *

(c) * * *

(2) *Valuation in a single country.* The Secretary normally will value all factors in a single surrogate country.

(3) *Manufacturing overhead, general expenses, and profit.* For manufacturing overhead, general expenses, and profit, the Secretary normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.

[FR Doc. 2023–21516 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–DS–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA–2023–0023]

RIN 0960–AI85

Extension of the Flexibility in Evaluating "Close Proximity of Time" To Evaluate Changes in Healthcare Following the COVID–19 Public Health Emergency

AGENCY: Social Security Administration.

ACTION: Temporary final rule with request for comments.

SUMMARY: On July 23, 2021, we issued a temporary final rule (TFR) with request for comments to lengthen the ''close proximity of time'' standard in the Listing of Impairments (the listings) for musculoskeletal disorders because the COVID–19 national public health emergency (PHE) caused many individuals to experience barriers that prevented them from timely accessing in-person healthcare. That prior TFR is effective until six months after the effective date of a determination by the Secretary of Health and Human Services (HHS) that a PHE resulting from the COVID–19 pandemic no longer exists. The Secretary of HHS made that determination, and the COVID–19 national PHE ended on May 11, 2023. However, healthcare practices in a post-PHE world are still evolving. We are therefore issuing this new TFR to extend the flexibility provided by the prior TFR until May 11, 2025, so we can evaluate changes in healthcare practices and determine the proper ''close proximity of time'' standard for the musculoskeletal disorders listings.

DATES:

Effective date: This TFR is effective on October 30, 2023.

Comment date: We invite written comments. Comments must be submitted no later than November 28, 2023.

Expiration date: Unless we extend the provisions of this TFR by a final rule published in the **Federal Register**, it will cease to be effective on May 11, 2025.

ADDRESSES: You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comment(s) multiple times or by more than one method. Regardless of which method you choose, please state that your comment(s) refer to Docket No. SSA–2023–0023 so that we may associate your comment(s) with the correct regulation.

Caution: You should be careful to include in your comment(s) only information that you wish to make publicly available. We strongly urge you not to include any personal information in your comment(s), such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comment(s) via the internet. Please visit the Federal eRulemaking portal at *https://www.regulations.gov.* Use the ''search'' function to find docket number SSA–2023–0023. The system will issue a tracking number to confirm your submission. You will not be able to view your comment(s) immediately because we must post each comment manually. It may take up to one week for your comment(s) to be viewable.

2. *Fax:* Fax comments to 1–833–410–1631.

3. *Mail:* Mail your comments to the Office of Legislation and Congressional Affairs Regulations and Reports Clearance Staff, Mail Stop 3253, Altmeyer, 6401 Security Blvd., Baltimore, MD 21235.

Comments are available for public viewing on the Federal eRulemaking portal at *https://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Michael J. Goldstein, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1020. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.ssa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2020, we published the final rule, *Revised Medical Criteria for Evaluating Musculoskeletal Disorders* (final rule),[1] which became effective on April 2, 2021. This final rule revised the criteria in the listings that we use to evaluate disability claims involving musculoskeletal disorders in adults and children at the third step of our sequential evaluation process under titles II and XVI of the Social Security Act (Act).[2] The final rule, among other things, revised the listings in response to the decision in *Radford* v. *Colvin,*[3] which interpreted former listing 1.04A to require a disability claimant to show only ''that each of the symptoms are present, and that the claimant has suffered or can be expected to suffer from [the condition] continuously for at least 12 months.'' [4] Under the court's interpretation of the former listing, a claimant did not need to show that each necessary criterion was present simultaneously or in particularly close proximity, as required by our interpretation of that listing.[5] The final rule clarified that, for the purposes of applying certain musculoskeletal disorders listings,[6] all of the required medical criteria must be present simultaneously, or within a close proximity of time, to satisfy the level of severity needed for the impairment to meet the listing. The final rule further defined the phrase ''within a close proximity of time'' to mean ''that *all* of the relevant criteria must appear in the medical record within a consecutive 4-month period'' (emphasis in original).[7] We also provided that ''[w]hen the criterion is imaging, we mean that we

[1] 85 FR 78164 (2020).

[2] For adults, the listings describe, for each of the major body systems, impairments that we consider to be severe enough to prevent an individual from doing any gainful activity regardless of his or her age, education, or work experience. 20 CFR 404.1525(a) and 416.925(a). For children, the listings describe impairments we consider severe enough to cause marked and severe functional limitations. 20 CFR 416.925(a). We use the listings at step 3 of the sequential evaluation process to identify claims in which the individual is clearly disabled under our rules. 20 CFR 404.1520, 416.920, and 416.924). We do not deny a claim when a person's medical impairment(s) does not satisfy the criteria of a listing. Instead, we continue the sequential evaluation process. 20 CFR 404.1520(a)(4) and 416.920(a)(4).

[3] *Radford* v. *Colvin,* 734 F.3d 288 (4th Cir. 2013).

[4] Id. at 294.

[5] See Acquiescence Ruling 15–1(4). We rescinded that Acquiescence Ruling after we revised the listings in 2020. 85 FR 79063 (2020).

[6] Listings 1.15, 1.16, 1.17, 1.18, 1.20C, 1.20D, 1.22, 1.23, 101.15, 101.16, 101.17, 101.18, 101.20C, 101.20D, 101.22, and 101.23.

[7] See 85 FR 78164 (2020) (revising 20 CFR part 404, subpart P, Appendix 1, 1.00C7c and 101.00C7c).

could reasonably expect the findings on imaging to have been present at the date of impairment or date of onset.'' [8]

We established the consecutive 4-month period as a criterion to meet the level of severity in some of the musculoskeletal disorders listings based on our research of relevant medical literature and clinical guidelines.[9] When we proposed this requirement as part of a notice of proposed rulemaking (NPRM),[10] we specifically asked interested members of the public to comment on this issue and provide us with any studies and data that supported their comments for a different standard; [11] however, no studies or data were submitted in response. In the final rule, we concluded that the consecutive 4-month period was consistent with the timeframe medical providers were generally trained to use for scheduling their patients,[12] the general standard of care,[13] and the frequency of healthcare visits by individuals with musculoskeletal conditions.[14] At the same time, the consecutive 4-month period provided some leeway for claimants, because the standard for patient revisits was once every 3 months.[15] Our rules recognize that one visit alone may not ensure all necessary criteria required for a medical listing will be appropriately documented; however, the consecutive 4-month time period provided a sufficient period to ensure the criteria were present ''within a close proximity of time'' and that the musculoskeletal disorder met the requisite severity for the listing.

[8] Id.

[9] See 85 FR at 78169–78170.

[10] 83 FR 20646 (2018).

[11] Id. at 20647.

[12] 85 FR at 78169 n.37 (citing Bavafa, H., Savin, S., & Terwiesch, C. (2019). Redesigning Primary Care Delivery: Customized Office Revisit Intervals and E-Visits. *https://dx.doi.org/10.2139/ssrn.2363685*. Paper referenced by Bavafa: Schectman, G., G. Barnas, P. Laud, L. Cantwell, M. Horton, E.J. Zarling. 2005. Prolonging the return visit interval in primary care. The American Journal of Medicine, 118(4) 393–399).

[13] 85 FR at 78169 n.34 (citing Gore, M., Sadosky, A., Stacey, B.R., Tai, K.S., & Leslie, D. (2012). The burden of chronic low back pain: Clinical comorbidities, treatment patterns, and health care costs in usual care settings. Spine, 37(11), E668–E677. *https://doi.org/10.1097/BRS.0b013e318241e5de*).

[14] 85 FR at 78169 n.35 (citing BMUS: The Burden of Musculoskeletal Diseases in the United States. In: BMUS: The Burden of Musculoskeletal Diseases in the United States [internet]. [cited 15 July 2020]. *https://www.boneandjointburden.org/fourth-edition/viiic2/utilization-condition-group*).

[15] See 85 FR at 78169 n.36 (citing J Gen Intern Med. 1999 Apr; 14(4): 230–235. doi: 10.1046/j.1525–1497.1999.00322.x Lisa M Schwartz, MD, MS, Steven Woloshin, MD, MS, John H Wasson, MD, Roger A Renfrew, MD, and H Gilbert Welch, MD, MPH, Dartmouth Primary Care Cooperative Research Network).

Onset of COVID–19

In 2020, COVID–19 began to spread throughout the country, prompting the Secretary of Health and Human Services to declare a national PHE on January 31, 2020.[16] With the outbreak of COVID–19, access to and the provision of healthcare changed significantly. Throughout the PHE, individuals across the country—including those with musculoskeletal disorders—altered their frequency and manner of seeking access to healthcare. This was due in part to healthcare organizations and government agencies such as the Centers for Medicare & Medicaid Services (CMS) [17] prioritizing the most urgent services and encouraging patients to delay other procedures during the PHE. Likewise, many individuals delayed or deferred important treatments due to closures of medical offices, fears of contracting COVID–19 infection (including fear of exposing high-risk individuals living in their household to infection), and other challenges created or exacerbated by the pandemic, such as difficulty accessing transportation.

In July 2021, we published a TFR entitled *Flexibility in Evaluating ''Close Proximity of Time'' Due to COVID–19 Related Barriers to Healthcare* [18] (prior TFR), which recognized the changes in healthcare provision and consumption described above. In the prior TFR, we acknowledged that the response to the COVID–19 pandemic dramatically changed the provision of, and access to, healthcare services throughout the country, and we cited evidence showing that significant numbers of people had foregone or delayed care, or replaced in-person medical visits with telehealth visits.[19] Therefore, we concluded that individuals with musculoskeletal impairments who, before the pandemic, would have sought and received healthcare at a frequency consistent with the standards in our final rule, now might be unable or choose not to seek care for their condition in the same manner and frequency. Affected individuals whose impairments might have previously met the listings requirements may now fail to meet the ''close proximity of time'' standard because of the changes in the provision of healthcare resulting from COVID–19. We therefore extended the timeframe for an individual's record to demonstrate the necessary listing criteria throughout the pandemic period.

The prior TFR defined the ''pandemic period'' for the purposes of our regulations and provided that during the pandemic period, the phrase ''within a close proximity of time'' meant that *all* of the relevant criteria must appear in the medical record within a consecutive 12-month period.'' [20] The prior TFR defined the ''pandemic period'' as beginning on April 2, 2021 and ending 6 months after the Secretary of HHS determined that the COVID–19 national PHE no longer existed. We extended the ''pandemic period'' for 6 months after the end of the COVID–19 national PHE to allow time for healthcare access to normalize and return to pre-pandemic period levels as well as to account for potential backlogs in medical care that may continue to interfere with access to the relevant care and documentation needed to satisfy the listing criteria. We also indicated that we would study the application of the TFR on our programs.[21]

Public Comment on the Prior TFR

When we published the prior TFR in the **Federal Register**, we provided the public with a 60-day comment period, which ended on September 21, 2021. We specifically contemplated extending the prior TFR, and we invited comments on all aspects of the rule, including the definition of ''pandemic period'' and the expiration date. We received one comment from the National Organization of Social Security Claimants' Representatives (NOSSCR) [22] that encouraged us to make permanent the temporary 12-month standard. The commenter also recommended, if we chose not to make the 12-month standard permanent, that we extend the period covered by the prior TFR to one year after the end of the PHE. They argued that access to care issues exist regardless of the pandemic and that it would take longer than 6 months for healthcare delivery to normalize after the end of the PHE.

With this temporary rule, we are partially adopting this comment. Although we provided support for the consecutive 4-month period in our 2020

[16] Determination That A Public Health Emergency Exists by Alex M. Azar II, *Secretary of Health & Human Services* (Jan. 31. 2020) (*https://aspr.hhs.gov/legal/PHE/Pages/2019-nCoV.aspx*).

[17] Centers for Medicare & Medicaid Services (CMS) Recommendations: Re-opening Facilities to Provide Non-emergent Non-COVID–19 Healthcare (*https://www.cms.gov/files/document/covid-recommendations-reopening-facilities-provide-non-emergent-care.pdf*); see also Non-Emergent, Elective Medical Services, and Treatment Recommendations (*https://www.cms.gov/files/document/cms-non-emergent-elective-medical-recommendations.pdf*).

[18] 86 FR 38920 (2021).

[19] Id.

[20] 86 FR at 38925.

[21] 86 FR at 38924.

[22] See Comment from National Organization of Social Security Claimants' Representatives on Document SSA–2021–0010–0001, *https://www.regulations.gov/comment/SSA-2021-0010-0002.*

final rule, we agree with NOSSCR that some of the changes in healthcare caused by the COVID–19 pandemic may last longer than 6 months after the end of the PHE and that some changes may become permanent, including the increased use of telehealth, the nature of which limits documentation of clinical findings needed for certain listings. However, as discussed in the *Rationale for this Rule* section below, the healthcare data that was captured during the PHE has limitations both in data collection and in the ability to make ultimate conclusions about post-PHE healthcare delivery, particularly in light of policy changes affecting healthcare that will occur throughout calendar years 2023 and 2024.[23] Therefore, we are extending the flexibility provided in the prior TFR by extending the definition of ''pandemic period'' through May 11, 2025, so we can continue to review emerging evidence about post-PHE healthcare access and use. At the conclusion of that period, we expect to be able to determine whether we should extend the TFR again, make the flexibility in the TFR permanent, as the commenter recommended, propose a different standard for ''close proximity of time,'' or let the TFR expire, so that we would revert to the 4-month rule on ''close proximity of time'' in our 2020 final rule. The commenter also raised issues regarding general barriers to accessing care that disability benefit applicants may be disproportionally likely to experience. These comments are outside the scope of this very limited TFR, so we are not addressing them here. We will address these comments in a future venue. We also note that although the commenter provided significant discussion of the wait times for imaging, including citing research about these wait times, they appear to have mischaracterized the ''close proximity of time'' requirement for imaging. The listings specify at 1.00C7c and 101.00C7c that ''[w]hen the criterion is imaging, we mean that we could reasonably expect the findings on imaging to have been present at the date of impairment or date of onset.'' [24] Therefore, in listings that have an imaging criterion, we do not require the imaging to have been taken within a close proximity of time to the other required elements, as long as we can reasonably expect the findings on imaging to have been present within a close proximity of time to the other required elements.

Rationale for This Rule

We are extending the flexibility provided by the prior TFR through May 11, 2025 to allow for additional time to study changes in healthcare access and provision, and to account for the ongoing increased use of telehealth services following the COVID–19 PHE. We will evaluate these evolving practices and their effects to determine the appropriate ''close proximity of time'' standard to include in the musculoskeletal disorders listings going forward.

We published the prior TFR to provide a more flexible 12-month ''close proximity of time'' standard in the musculoskeletal disorders listings to account for changes in the provision of and access to healthcare during the COVID–19 PHE. Although the PHE has now ended,[25] the state of healthcare has not fully returned to pre-pandemic norms and the impact of ending the PHE and related flexibilities will not be fully understood for some time. For example, and as discussed in more detail below, studies and reports from multiple government agencies as well as professional medical associations document an ongoing prevalence of telehealth service methodologies at higher levels than seen pre-PHE. In addition, several PHE-related policy flexibilities aimed at increasing healthcare access through telehealth have been extended through 2023 or 2024. At the same time, Medicaid and the Children's Health Insurance Program's (CHIP) continuous coverage protections, which had required states to maintain ongoing eligibility for Medicaid and CHIP for individuals who were enrolled on or after March 18, 2020, ended on March 31, 2023, leaving states until May 31, 2024, to complete eligibility redeterminations,[26] potentially leading to an increase in uninsured individuals. These factors suggest that U.S. healthcare will be in a state of rapid change in the period immediately following the PHE, so we will need to study the changes in healthcare provision before defining the appropriate ''close proximity of time'' interval going forward.

As we discussed in the prior TFR, after the initial sharp drop in total healthcare capacity due to PHE-related closures and disruptions of care, policy flexibilities around telehealth provision and reimbursement allowed for the use of telehealth to increase substantially from pre-pandemic norms, partially offsetting the decline in in-person care, particularly for management of chronic conditions and for established patients.[27] Although telehealth visits can provide the information that clinicians need to care for patients, audio-only telehealth appointments do not provide clinical signs and findings, and video telehealth musculoskeletal examinations have inherent limitations, including in provocative testing (that is, testing that manipulates the areas where an individual has pain in order to reproduce the pain), discrete palpation (that is, a technique that uses targeted pressure to identify and quantify the abnormalities of the musculoskeletal system, such as warmth, swelling, pain, tenderness, and trigger points), strength or stability testing, and precise measurements, such as range of motion or reflexes.[28] Therefore, use of telehealth in place of in-person visits may make it more difficult for some

[23] *See, e.g.,* Neri, A. J., Whitfield, G. P., Umeakunne, E. T., Hall, J. E., DeFrances, C. J., Shah, A. B., Sandhu, P. K., Demeke, H. B., Board, A. R., Iqbal, N. J., Martinez, K., Harris, A. M., & Strona, F. V. (2022). Telehealth and Public Health Practice in the United States-Before, During, and After the COVID–19 Pandemic. *Journal of public health management and practice: JPHMP, 28*(6), 650–656. *https://doi.org/10.1097/PHH.0000000000001563.*

[24] 20 CFR part 404, subpart P, Appendix 1, 1.00C7c and 101.00C7c.

[25] Becarra, X. (2023, May 11). Statement on End of the COVID–19 Public Health Emergency. *Department of Health and Human Services. https://www.hhs.gov/about/news/2023/05/11/hhs-secretary-xavier-becerra-statement-on-end-of-the-covid-19-public-health-emergency.html.*

[26] Tsai, D. (2023, Jan 5). CMS Informational Bulletin: Key Dates Related to the Medicaid Continuous Enrollment Condition Provisions in the Consolidated Appropriations Act, 2023. *Centers for Medicare & Medicaid Services, U.S. Department of Health & Human Services. https://www.medicaid.gov/federal-policy-guidance/downloads/cib010523.pdf.*

[27] *See, e.g.,* Samson, L., Tarazi, W., Turrini, G., Sheingold, S. (2021, Dec.). Medicare Beneficiaries' Use of Telehealth Services in 2020—Trends by Beneficiary Characteristics and Location (Issue Brief No. HP–2021-27). *Office of the Assistant Secretary for Planning & Evaluation, U.S. Department of Health & Human Services. https://aspe.hhs.gov/sites/default/files/documents/a1d5d810fe3433e18b192be42dbf2351/medicare-telehealth-report.pdf* ; Centers for Medicare & Medicaid Services (2022, Dec.). Medicare Telehealth Trends Report. *Centers for Medicare & Medicaid Services, U.S. Department of Health & Human Services. https://data.cms.gov/sites/default/files/2022-12/a7c3a319-5ded-4baf-ad7c-9aa2a897263a/MedicareTelehealthTrendsSnapshot20221201.pdf;* Patel, S. Y., Mehrotra, A., Huskamp, H. A., Uscher-Pines, L., Ganguli, I., & Barnett, M. L. (2021). Trends in Outpatient Care Delivery and Telemedicine During the COVID–19 Pandemic in the US. *JAMA internal medicine, 181*(3), 388–391. *https://doi.org/10.1001/jamainternmed.2020.5928;* Cortez, C., Mansour, O., Qato, D. M., Stafford, R. S., & Alexander, G. C. (2021). Changes in Short-term, Long-term, and Preventive Care Delivery in US Office-Based and Telemedicine Visits During the COVID–19 Pandemic. *JAMA health forum, 2*(7), e211529. *https://doi.org/10.1001/jamahealthforum.2021.1529.*

[28] 86 FR 38920 (2021) (citing Tanaka et al. (2020). Telemedicine in the Era of COVID–19: The Virtual Orthopaedic Examination. *The Journal of bone and joint surgery. American volume, 102*(12), e57. *http://dx.doi.org/10.2106/JBJS.20.00609*).

claimants to provide the necessary findings in the medical record to satisfy some of the musculoskeletal disorders listing criteria within a consecutive 4-month period.

Trends suggest telehealth usage will continue into the foreseeable future. Since the prior TFR was published, the use of telehealth as a percentage of total use has remained stable, with total healthcare visits and in-person visits trending higher than in 2020, but with an increased use of telehealth compared to pre-PHE norms. For example, the Veterans' Health Administration's (VHA) update to Congress covering the period from August 2021 to March 2022 showed that total visits had surpassed pre-PHE 2019 visits during this period, but in-person visits remained below pre-PHE totals, with both video and audio telehealth visits showing steady use over the period. VHA concluded that the data marked ''positive progress for resumption of services with continued use of telehealth encounters.'' [29] Similarly, Medicare data showed telehealth use leveling off between 16 and 19 percent of eligible users in all quarters beginning in the second quarter of 2021 and through the second quarter of 2022, which is significantly higher than the 7 percent of eligible users who used telehealth services in the first quarter of 2020.[30] An HHS summary of national survey trends from the Census Bureau's April to October 2021 Household Pulse Survey found that 23.1 percent of respondents reported use of telehealth in the previous four weeks, with the data showing a leveling off around the 20 percent mark in July 2021.[31] The results of these studies suggest that the changes in healthcare delivery related to the PHE have continued, and we may not know the long-term effects of those changes before the prior TFR expires. Consequently, we are extending the expiration date of the TFR so we can continue to analyze evolving changes and new norms in healthcare delivery, including the use of telehealth, and devise the appropriate definition of ''close proximity of time'' for the musculoskeletal disorders listings. We will also continue to study other related factors such as those raised by the commenter.

Extending the TFR will further allow us to review and adapt to new clinical guidelines evolving in a post-PHE landscape. Although the research is still developing and most professional organizations have yet to update their clinical practice guidelines for a post-PHE ''new normal,'' the emerging research and data suggest that patients and providers generally appreciate the increased use of telehealth, and such increased use is expected to continue post-PHE. This increased use appears true for both audio-only and video telehealth modalities and includes specialties, such as orthopedic surgery and spine surgery, that previously used telehealth only sparingly. For example, an American Medical Association (AMA) survey of 2,232 physicians released in 2022 revealed that 85 percent of responding physicians continued to use telehealth, that nearly 70 percent of respondents reported their organization was motivated to continue using telehealth in their practice, that physicians felt telehealth increased timely access to care, and that physicians anticipated providing telehealth services for chronic disease management and ongoing medical management, care coordination, mental/behavioral health, and specialty care after the pandemic.[32]

Similarly, studies specific to the field of spine medicine generally found that practitioners and patients expected to continue using telehealth and that the majority of patients and providers only felt a need for in-person visits for the initial encounter and, if applicable, the pre-operative visit.[33] Studies of orthopedic medicine showed similar results, with a large study of orthopedic surgeons reporting that physician use of telehealth has increased significantly as a result of the COVID–19 pandemic (from 21 percent using telehealth prior to the pandemic to 85 percent using it during the pandemic), and the majority of surgeons were satisfied with its use in their practice and planned on incorporating telehealth in their practices beyond the pandemic, particularly for follow-up or postoperative patients.[34] In the realm of chronic pain, a Delphi consensus article about management of chronic pain concluded that telemedicine and remote monitoring improves management of chronic pain and that the remote management of chronic diseases can improve access to care, but that at least the first assessment should be performed in person.[35]

Some clinical practice organizations have provided recommendations or policy statements regarding the use of telehealth after the acute phase of the pandemic, suggesting an ongoing, but potentially more limited, role in healthcare provision for people with musculoskeletal disorders going forward. An international set of recommendations published in June 2022, and endorsed by the North American Spine Society, included a recommendation to expand telehealth for spine care in order to help patients with spinal diseases obtain timely advice toward alleviating pain and recognizing critical symptoms that need urgent care, and thus obtain treatment in a timely manner.[36] Additionally, the American College of Rheumatology (ACR) released a 2023 health policy statement in which it supported ongoing

[29] Veterans Health Administration (2022, Dec. 5). VHA COVID–19 Response Report, Annex C. *Veterans Health Administration, U.S. Department of Veterans Affairs. https://www.va.gov/HEALTH/docs/VHA-COVID-19-Response-2022-Annex-C.pdf.*

[30] Centers for Medicare & Medicaid Services (2022, Dec.). Medicare Telehealth Trends Report. *Centers for Medicare & Medicaid Services, U.S. Department of Health & Human Services. https://data.cms.gov/sites/default/files/2022-12/a7c3a319-5ded-4baf-ad7c-9aa2a897263a/MedicareTelehealthTrendsSnapshot20221201.pdf.*

[31] Karimi, M., Lee, E., Couture, S., Gonzales, A., Grigorescu, V., Smith, S., De Lew, N., and Sommers, B. (2022, Feb.). National Trends in Telehealth Use in 2021: Disparities in Utilization and Audio vs. Video Services. (Research Report No. HP–2022–04). *Office of the Assistant Secretary for Planning & Evaluation, U. S. Department of Health & Human Services. https://aspe.hhs.gov/sites/default/files/documents/4e1853c0b4885112b2994680a58af9ed/telehealth-hps-ib.pdf.*

[32] American Medical Association (2022). 2021 Telehealth Survey Report. *American Medical Association. https://www.ama-assn.org/system/files/telehealth-survey-report.pdf.*

[33] Mazarakis, N. K., Koutsarnakis, C., Komaitis, S., Drosos, E., & Demetriades, A. K. (2022). Reflections on the future of telemedicine and virtual spinal clinics in the post COVID–19 era. *Brain & spine, 2,* 100930. *https://doi.org/10.1016/j.bas.2022.100930;* Greven, A. C. M., McGinley, B. M., Guisse, N. F., McGee, L. J., Pirkle, S., Malcolm, J. G., Rodts, G. E., Refai, D., & Gary, M. F. (2021). Telemedicine in the Evaluation and Management of Neurosurgical Spine Patients: Questionnaire Assessment of 346 Consecutive Patients. *Spine, 46*(7), 472–477. *https://doi.org/10.1097/BRS.0000000000003821* ; Kolcun, J. P. G., Ryu, W. H. A., & Traynelis, V. C. (2020). Systematic review of telemedicine in spine surgery. *Journal of neurosurgery. Spine,* 1–10. Advance online publication. *https://doi.org/10.3171/2020.6.SPINE20863;* Satin, A. M., Shenoy, K., Sheha, E. D., Basques, B., Schroeder, G. D., Vaccaro, A. R., Lieberman, I. H., Guyer, R. D., & Derman, P. B. (2022). Spine Patient Satisfaction With Telemedicine During the COVID–19 Pandemic: A Cross-Sectional Study. *Global spine journal, 12*(5), 812–819. *https://doi.org/10.1177/2192568220965521.*

[34] Hurley, E. T., Haskel, J. D., Bloom, D. A., Gonzalez-Lomas, G., Jazrawi, L. M., Bosco, J. A., III, & Campbell, K. A. (2021). The Use and Acceptance of Telemedicine in Orthopedic Surgery During the COVID–19 Pandemic. *Telemedicine journal and e-health: the official journal of the American Telemedicine Association, 27*(6), 657–662. *https://doi.org/10.1089/tmj.2020.0255.*

[35] Cascella, M., Miceli, L., Cutugno, F., Di Lorenzo, G., Morabito, A., Oriente, A., Massazza, G., Magni, A., Marinangeli, F., Cuomo, A., & on behalf of the Delphi Panel (2021). A Delphi Consensus Approach for the Management of Chronic Pain during and after the COVID–19 Era. *International journal of environmental research and public health, 18*(24), 13372. *https://doi.org/10.3390/ijerph182413372.*

[36] Mazarakis, N. K., Koutsarnakis, C., Komaitis, S., Drosos, E., & Demetriades, A. K. (2022). Reflections on the future of telemedicine and virtual spinal clinics in the post COVID–19 era. *Brain & spine, 2,* 100930. *https://doi.org/10.1016/j.bas.2022.100930.*

expanded use of telehealth as a ''tool that can increase access and improve outcomes for patients with rheumatic diseases when used [with] face-to-face assessments.'' However, it cautioned that telehealth should not replace essential face-to-face assessments conducted at medically appropriate intervals.[37] The AMA also released a blueprint for digitally-enabled care, in which it recommended fully integrated in-person and virtual care models that based the type of care on clinical appropriateness and other factors, such as convenience and cost, and focused on health equity and centering the needs of patients and providers.[38]

The expected shift towards greater use of telehealth in medical practice after the PHE, compared to prior to the PHE, could mean that the evidence upon which we based the consecutive 4-month ''close proximity of time'' period may no longer accurately describe the standard frequency of in-person healthcare visits. In fact, some of the sources cited in the 2020 final rule and prior TFR have provided new guidance that removed specific revisit intervals. For example, in both rules, we noted that our use of the consecutive 4-month proximity of time requirement was also consistent with the standard recognized by the VHA and Department of Defense (DoD), as set out in their clinical practice guidelines.[39] We noted that the VHA and DoD's Clinical Practice Guideline for the Management of Medically Unexplained Symptoms: Chronic Pain and Fatigue directed initial revisits at 2 to 3 week intervals, with visits every 3 to 4 months once the patient is doing well.[40] However, a 2021 updated VHA and DoD Clinical Practice Guideline for Management of Chronic Multisymptom Illness (formerly known as Medically Unexplained Symptoms) does not provide suggested revisit intervals. Instead, it includes recommendations to ''[d]evelop personal health plan and timeline for follow-up and monitor progress toward personal goals'' and ''[m]aintain continuity and [a] caring relationship via in-person and/or virtual modalities,'' without specifying intervals.[41] Similarly, the previous version of the VHA's and DoD's Clinical Practice Guideline for Diagnosis and Treatment of Low Back Pain, which we also cited in our prior rulemaking, described the duration of time for intervention, based on a systematic review, as requiring a minimum follow-up for effectiveness of 12 weeks and recommended monthly reassessment after initiation of therapy if low back pain continued and no serious specific underlying cause of low back pain was found.[42] However, the updated 2022 version of this guideline allows for a more flexible, patient-centered approach and has replaced the specific interval language with recommendations to ''assess response as appropriate'' and ''reassess as appropriate.'' [43] We need the additional time provided by this TFR to assess whether and how these changes in clinical practice guidelines may affect the period we chose to use in our 2020 final rule.

In addition to the extension of telehealth flexibilities, other policy changes related to the end of the PHE may impact healthcare use and create a period of rapid changes in healthcare. Some national telehealth flexibilities have been extended until the end of calendar year 2023 (for example, payment parity for audio and video telehealth visits, which allows providers to be reimbursed for telehealth visits originated at the patient's home at the same rate and using the same ''place of service'' code as they would be if provided in-person).[44] Other flexibilities have been extended through December 31, 2024 (for example, Medicare coverage of audio-only and of video telehealth services no matter where in the United States a patient lives, rather than covering telehealth services for beneficiaries living in rural areas only, and with the ability to access telehealth services from their home, rather than going to a health care facility).[45] Conversely, certain other flexibilities, such as flexibilities related to telehealth platforms and the continuous enrollment provision for Medicaid, began winding down at the end of the PHE.[46] Extra federal payments to hospitals during the PHE, including a 20 percent increase in the Medicare payment rate for inpatient treatment of patients diagnosed with COVID–19 and the ability to charge ''facility fees'' for telehealth services to patients who are not located at the hospital, were also phased out at the end of the PHE,[47] putting additional financial strain on the medical system.

In particular, the expected substantial rise in the uninsured population after the PHE-related Medicaid and CHIP continuous enrollment provision ends will exacerbate access to care challenges during this transitional time, making it more difficult to predict revisit intervals and use of healthcare, particularly for people facing barriers to healthcare.

An HHS issue brief published in 2022 projected that 17.4 percent of Medicaid and CHIP enrollees (approximately 15 million individuals) will leave the programs after the continuous enrollment provisions end based on historical patterns of coverage loss, including 7.9 percent (6.8 million) of Medicaid enrollees losing Medicaid coverage despite still being eligible (sometimes referred to as ''administrative churning''). HHS predicted there would be a disproportionate impact on historically underserved populations, although they noted they were taking steps to reduce that outcome.[48] Information from the

[37] American College of Rheumatology (2023). 2023 ACR Health Policy Statements. *American College of Rheumatology. https://assets.contentstack.io/v3/assets/bltee37abb6b278ab2c/bltd84782969d741aba/acr-health-policy-statements.pdf.*

[38] American Medical Association (2022). AMA Future of Health Closing the Digital Health Disconnect: A Blueprint for Optimizing Digitally Enabled Care. *American Medical Association. https://www.ama-assn.org/system/files/ama-future-health-report.pdf.* (Accessed March 22, 2023).

[39] 85 FR at 78169 n.38 (2020) (citing Veterans Health Administration & Department of Defense. (2001). VHA/DoD Clinical Practice Guideline for the Management of Medically Unexplained Symptoms: Chronic Pain and Fatigue. *https://www.healthquality.va.gov/guidelines/MR/mus/mus_fulltext.pdf*). See also 86 FR at 38922 (2021).

[40] Id.

[41] Veterans Health Administration & Department of Defense (2021). VA/DoD Clinical Practice Guideline for the Management of Chronic Multisystem Illness, Version 3.0–2021. *https://www.healthquality.va.gov/guidelines/MR/cmi/VADoDCMICPG508.pdf.*

[42] 85 FR at 78169–70 (citing Veterans Health Administration & Department of Defense. (2017). VA/DoD Clinical Practice Guideline for Diagnosis and Treatment of Low Back Pain. *https://www.healthquality.va.gov/guidelines/Pain/lbp/VADoDLBPCPG092917.pdf.*)

[43] Veterans Health Administration & Department of Defense (2022, Feb.). *VA/DoD Clinical Practice Guideline for Diagnosis and Treatment of Low Back Pain (Version 3.0–2022). https://www.healthquality.va.gov/guidelines/Pain/lbp/VADoDLBPCPGFinal508.pdf.*

[44] 87 FR 69404 at 69466.

[45] U.S. Department of Health & Human Services (2023, Feb. 9). Fact Sheet: COVID–19 Public Health Emergency Transition Roadmap. *https://www.hhs.gov/about/news/2023/02/09/fact-sheet-covid-19-public-health-emergency-transition-roadmap.html.*

[46] U.S. Department of Health & Human Services (2023, May 9). Fact Sheet: End of the COVID–19 Public Health Emergency *https://www.hhs.gov/about/news/2023/05/09/fact-sheet-end-of-the-covid-19-public-health-emergency.html.*

[47] Centers for Medicare & Medicaid Services (2023, May 5). Frequently Asked Questions: CMS Waivers, Flexibilities, and the End of the COVID–19 Public Health Emergency. *Centers for Medicare & Medicaid Services, U.S. Department of Health & Human Services. https://www.cms.gov/files/document/frequently-asked-questions-cms-waivers-flexibilities-and-end-covid-19-public-health-emergency.pdf; See also* American Hospital Association (2023, Feb. 7). Special Bulletin: Public Health Emergency to End May 11. *American Hospital Association. https://www.aha.org/system/files/media/file/2023/02/Special-Bulletin-Public-Health-Emergency-to-End-May-11.pdf.*

[48] Office of the Assistant Secretary for Planning & Evaluation (2022, August 19). Unwinding the

Continued

Centers for Disease Control and Prevention (CDC) already shows an uptick in the uninsured population beginning in late 2022, with the uninsured population increasing to 12.6 percent of adults in the United States in the third quarter of 2022 from a low of 11.8 percent in the first quarter of 2022.[49] Initial data on the end of Medicaid's continuous enrollment provision from 20 states provided by the Kaiser Family Foundation demonstrated that over 1 million people had already been disenrolled from Medicaid, with many disenrolled for procedural reasons, as of June 12, 2023.[50] Data analyzed by the Kaiser Family Foundation found that the uninsured population was the only population that had delayed or foregone care due to cost more than due to the pandemic, suggesting that gaps in access to care will remain high for a growing uninsured population even as pandemic-related concerns are expected to decrease.[51] Additionally, a Gallup poll released in January 2023 noted that a record high 38 percent of Americans reported putting off medical treatment due to cost, up 12 percentage points from 2021, and that lower-income adults, younger adults, and women were more likely than their counterparts to say they or a family member have delayed care for a serious medical condition.[52]

Initial evidence also suggests that the ongoing impacts of the COVID–19 PHE and the increased use of telehealth may also affect certain populations differently. For example, the HHS' summary of national survey trends from the Census Bureau's April to October 2021 Household Pulse Survey found that the highest rates of telehealth visits were among those with Medicaid (29.3%) and Medicare (27.4%), Black individuals (26.8%), and those earning less than $25,000 (26.7%). The report found disparities in use of telehealth services, including the use of video versus audio modalities, along dimensions including race and ethnicity, age, education, income, and health insurance.[53] Similarly, an October 2022 report on telehealth use in Medicare from 2019 to 2021, issued by the Bipartisan Policy Center, found that, although the distribution of beneficiaries using telehealth by race and ethnicity was roughly proportionate to the distribution of the overall study population by race and ethnicity, there was variation in the telehealth visit rates for those who used telehealth across racial and ethnic groups. They noted that telehealth visit rates for American Indian/Alaska Native (AI/AN), Black/African American (AA), and Hispanic beneficiaries exceeded the overall telehealth rates, with AI/AN beneficiaries having the highest audio-only visit rates, and that non-Hispanic/White beneficiary telehealth visit rates were lower than the overall telehealth visit rates by 2 percent, on average, across the study period.[54] Further, a cross-sectional study of over a million veterans published in the Journal of the American Medical Association (JAMA) in January 2023 found that wait time disparities increased significantly from the pre–COVID–19 period (October 1, 2018 to March 10, 2020) to the COVID–19 period (March 11, 2020 to September 30, 2021) for Black and Hispanic veterans, and that disparities in mean wait times for orthopedic services were statistically significant both before and after the COVID–19 period.[55]

In sum, the emerging data suggests that an increased use of telehealth will likely replace some in-person visits for some people with musculoskeletal disorders even after the end of the PHE and that other policy and healthcare changes could impact access to care during the period immediately following the end of the PHE, possibly leading to extended revisit intervals between thorough examinations. However, evidence on expanded telehealth use and its expected long-term effect on healthcare quality and the use of in-person examinations is limited, partially by data challenges, although the research base is expected to grow during the period immediately following the end of the PHE. For example, a report published by CDC experts in 2022 stated that ''one of the central public health issues in the U.S. identified by CDC was the absence of telehealth identifiers in many datasets, including most of CDC's national surveillance datasets.'' The report authors stated that the CDC was working to improve access to data related to healthcare and telehealth.[56] To this end, Medicare provided for additional use of telehealth identifiers in its 2023 fee schedule, including identifiers for audio-only telehealth.[57]

There are also inherent limitations in relying on healthcare use data gathered during the PHE to determine post-PHE outcomes. For example, in an October 2022 report, the Bipartisan Policy Center concluded that studies of telehealth use during the PHE would not provide enough information to understand the impact of permanently expanded telehealth use on healthcare utilization, quality, equity, cost, and other factors due to confounding pandemic-related changes in healthcare needs, and they urged further study of telehealth during the period following the end of the PHE. The report recommended a two-year extension of telehealth flexibilities after the end of the PHE and indicated that researchers should evaluate the benefits of hybrid (in-person and virtual) care models for

Medicaid Continuous Enrollment Provision: Projected Enrollment Effects and Policy Approaches (Issue Brief HP–2022–20). *Office of the Assistant Secretary for Planning & Evaluation, U.S. Department of Health & Human Services.* Accessed on March 3, 2023 at: *https://aspe.hhs.gov/sites/default/files/documents/404a7572048090ec1259d216f3fd617e/aspe-end-mcaid-continuous-coverage_IB.pdf.*

[49] National Center for Health Statistics. Percentage of being uninsured at the time of interview for adults aged 18–64, United States, 2019 Q1, Jan-Mar—2022 Q3, Jul-Sep. National Health Interview Survey. Generated interactively: Mar 06 2023 from *https://wwwn.cdc.gov/NHISDataQueryTool/ER_Quarterly/index_quarterly.html.*

[50] Kaiser Family Foundation (2023, June 13). Medicaid Enrollment and Unwinding Tracker. *Kaiser Family Foundation. https://www.kff.org/medicaid/issue-brief/medicaid-enrollment-and-unwinding-tracker/.*

[51] McGough, M., Krutika, A., & Cox, C., (2023, Jan. 24). How has healthcare utilization changed since the pandemic? *Peterson Center on Healthcare-Kaiser Family Foundation Health System Tracker. https://www.healthsystemtracker.org/chart-collection/how-has-healthcare-utilization-changed-since-the-pandemic/.*

[52] Brenan, Megan (2023, Jan. 17). Record High in U.S. Put Off Medical Care Due to Cost in 2022. *Gallup. https://news.gallup.com/poll/468053/record-high-put-off-medical-care-due-cost-2022.aspx.*

[53] Karimi, M., Lee, E., Couture, S., Gonzales, A., Grigorescu, V., Smith, S., De Lew, N., and Sommers, B. (2022, Feb.). National Trends in Telehealth Use in 2021: *Disparities in Utilization and Audio* vs. *Video Services.* (Research Report No. HP–2022–04). *Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services. https://aspe.hhs.gov/sites/default/files/documents/4e1853c0b4885112b2994680a58af9ed/telehealth-hps-ib.pdf.*

[54] Bipartisan Policy Center, Ananya Health Solutions LLC, and L&M Policy Research (2022, Oct.). Medicare Telehealth Utilization and Spending Impacts 2019–2021. *Bipartisan Policy Center. https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2022/09/BPC-Medicare-Telehealth-Utilization-and-Spending-Impacts-2019-2021-October-2022.pdf.*

[55] Gurewich, D., Beilstein-Wedel, E., Shwartz, M., Davila, H., & Rosen, A.K. (2023). Disparities in Wait Times for Care Among US Veterans by Race and Ethnicity. *JAMA network open, 6*(1), e2252061. *https://doi.org/10.1001/jamanetworkopen.2022.52061.*

[56] Neri, A.J., Whitfield, G.P., Umeakunne, E.T., Hall, J.E., DeFrances, C.J., Shah, A.B., Sandhu, P.K., Demeke, H.B., Board, A.R., Iqbal, N.J., Martinez, K., Harris, A.M., & Strona, F.V. (2022). Telehealth and Public Health Practice in the United States—Before, During, and After the COVID–19 Pandemic. *Journal of public health management and practice: JPHMP, 28*(6), 650–656. *https://doi.org/10.1097/PHH.0000000000001563.*

[57] U.S. Government Accountability Office (2022, Sept. 26). Medicare Telehealth: Actions Needed to Strengthen Oversight and Help Providers Educate Patients on Privacy and Security Risks (GAO–22–104454). Accessed March 3, 2023 at: *https://www.gao.gov/products/gao-22-104454.*

primary and specialty care, including for which conditions and specialties it is most effective; further evaluate full telehealth flexibilities in the context of value-based payment models; and rigorously assess the quality of audio-only care.[58] Similarly, in September 2022, the Medicare Payment Advisory Commission (MedPAC), an independent congressional agency that advises Congress on Medicare payment policy, recommended using a one- to two-year period of extended flexibilities after the PHE to allow policymakers to gather more evidence about the impact of telehealth on access, quality, and cost, which could inform permanent changes to telehealth policies.[59] Along these lines, a 2021 Medicare telehealth report concluded that more research is needed on the impact of telehealth on health outcomes, stating that ''if telehealth flexibilities are temporarily extended post-pandemic . . . this would allow evaluations of whether telehealth use during non-pandemic times may increase overall healthcare utilization as suggested by some studies, or simply substitute for in-person services.'' [60] Recognizing the need for more data on telehealth use, Congress required HHS to report on Medicare telehealth use during the period immediately following the end of the PHE, with the interim report due in October 2024.[61]

Because healthcare provision has not returned to pre-pandemic norms and emerging evidence suggests that ongoing changes may lead to decreased use of in-person healthcare, we need to continue to evaluate the evidence upon which we based the consecutive 4-month ''close proximity of time'' period. We need to determine whether the evidence we relied on in adopting the 4-month standard continues to match the current status of healthcare, including the standard frequency of in-person healthcare visits. Consequently, we are extending the flexibility provided in the prior TFR until May 11, 2025.

Evidence To Review

We will use the extension period to study the actual changes in healthcare access and provision after the expiration of the PHE. We expect this additional period will allow us to consider whether a permanent change to the consecutive 12-month ''close proximity of time'' period, or to a different timeframe, would be appropriate to account for ongoing changes in healthcare access and delivery. During the extension period, we will also continue to review information about disparities in access to care or modalities of care for people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality and who have been affected by the changes in healthcare provision during the pandemic. This review is consistent with Executive Order 13985, entitled ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' which directs agencies to recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity.[62]

We will also continue to study the application of the ''close proximity of time'' rule in our programs after the expiration of the PHE. We expect that continued review of case trends over time can help inform our understanding of how the end of the PHE may affect claimants' ability to provide the required evidence within a 4-month or 12-month period for the applicable musculoskeletal disorders. We will also continue to monitor the quality of our determinations and decisions to inform our policy decision and ensure the appropriate adjudication of claims for people with musculoskeletal disorders.

Solicitation for Public Comment

Although we are publishing a temporary final rule, we invite public comment on all aspects of the rule, including:

- The appropriate standard for ''close proximity of time'' to account for barriers to access to care or changes in healthcare delivery;
- Information about barriers to access to care, changes in healthcare delivery, and disproportionate burdens faced by any subset of the population; and
- The expiration date of this rule.

Please share any supporting information that you might have. We will consider any substantive comments we receive within 60 days of the publication of this TFR.

Summary of the Changes

This rule revises sections 1.00C7a and 101.00C7a of the musculoskeletal disorders listings to redefine the term ''pandemic period'' to mean ''the period beginning on April 2, 2021, and ending on May 11, 2025.''

Justification for Foregoing Notice and Comment Rulemaking

We follow the Administrative Procedure Act's (APA) rulemaking procedures specified in 5 U.S.C. 553 when we develop regulations. Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. However, the APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B)).

We find that there is good cause to issue this TFR without prior notice.[63] Because we have already been following the flexible 12-month ''close proximity of time'' standard, it would be impracticable and contrary to the public interest to delay implementing this TFR. Delayed implementation of this TFR would require us to delay adjudicating affected claims, potentially resulting in delayed benefits to vulnerable individuals.[64] Otherwise (if we did not delay adjudications), we would need to apply the 4-month ''close proximity of time'' standard, which does not consider changes in healthcare access and delivery related to the PHE, as discussed in the preamble. Thus, individuals might be unable to show that they meet a listing under the 4-month ''close proximity of time'' standard merely due to changes in how the healthcare system works. To give individuals the benefit of the flexible standard that has already been in place

[58] Bipartisan Policy Center & Ananya Health Solutions LLC (2022, Oct.). The Future of Telehealth After COVID–19. *Bipartisan Policy Center. https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2022/09/BPC-The-Future-of-Telehealth-After-COVID-19-October-2022.pdf.*

[59] The Medicare Payment Advisory Commission (2022, Sept. 29). *MedPAC Mandatory report: Study on the Expansion of Telehealth. https://www.medpac.gov/wp-content/uploads/2021/10/Telehealth-MedPAC-29-Sept-2022.pdf.*

[60] Samson, L., Tarazi, W., Turrini, G., Sheingold, S. (2021, Dec.). Medicare Beneficiaries' Use of Telehealth Services in 2020—Trends by Beneficiary Characteristics and Location (Issue Brief No. HP–2021–27). *Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services. https://aspe.hhs.gov/sites/default/files/documents/a1d5d810fe3433e18b192be42dbf2351/medicare-telehealth-report.pdf.*

[61] The Consolidated Appropriations Act, 2023, Public Law 117–328.

[62] 86 FR 7009 (2021).

[63] In our prior TFR, we provided notice that we would consider extending the expiration date of the rule, and we invited public comments on the expiration date. 86 FR at 38920, 38924. As discussed above, we received a public comment from NOSSCR that encouraged us to make the temporary 12-month standard permanent or, if we chose not to make the 12-month standard permanent, to extend the period covered by the prior TFR to one year after the end of the PHE.

[64] Individuals who are eligible for disability benefits are, by definition, not able to engage in substantial gainful activity, which means they may experience immediate and severe financial hardship.

for over two years, we would delay adjudicating affected claims until the effective date of this TFR.

Delay in implementing this TFR would be impracticable and contrary to the public interest because it may cause some applicants to experience immediate and severe financial hardship, placing them at risk of losing their homes, means of transportation, access to health care, and other important resources, in addition to experiencing increased stress as they await the outcome of their case and their award of benefits. This is particularly true for the population that is eligible for Supplemental Security Income (SSI), which has, by definition, severely limited income and financial resources.[65] An unnecessary delay would cause significant harm and detract substantially from the effectiveness of the disability program in providing meaningful economic relief for disabled individuals. Even if affected claimants received the same benefits at a later date, these individuals may suffer from long term or permanent consequences of the lost income during the period of delay.

For good cause shown, to avoid delaying benefits to vulnerable individuals while providing appropriate flexibility to account for COVID–19-related healthcare changes, we are dispensing with prior notice and public comment on this rule pursuant to 5 U.S.C. 553(b)(B).

Regulatory Procedures

Clarity of This Rule

Executive Order 12866, as supplemented by Executive Orders 13563 and 14094, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rule clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand, *e.g.,* grouping and order of sections, use of headings, paragraphing?

[65] 42 U.S.C. 1382(a); 20 CFR 416.202.

Executive Order 12866, as Supplemented by Executive Orders 13563 and 14094

We consulted with the Office of Management and Budget (OMB) and determined that this rule is a non-significant regulatory action under Executive Order 12866, as supplemented by Executive Orders 13563 and 14094.

Anticipated Transfers to Our Program

Our Office of the Chief Actuary estimates that implementation of this temporary final rule would result in negligible changes (*i.e.,* less than $500,000) in scheduled Old-Age, Survivors, and Disability Insurance benefits and Federal SSI payments.

Anticipated Administrative Cost-Savings to the Social Security Administration

The Office of Budget, Finance, and Management expects the extension provided by the TFR will have a minimal administrative effect on the agency.

Anticipated Time-Savings and Qualitative Benefits

We anticipate the following qualitative benefits generated from this policy:

- Provide a more flexible and appropriate 12-month ''close proximity of time'' standard in the musculoskeletal disorders listings to account for healthcare changes that have occurred since the beginning of the COVID–19 PHE.
- Potentially allow for faster disability determinations and decisions by preventing adjudication delays for additional medical development, which would also have quantitative financial effects.

Anticipated Costs

We do not believe there are any more than de minimis costs to the public associated with this rule. The requirements in this rule will not impose new additional costs outside of the normal course of business for applicants or change how the public interacts with our disability programs.

Executive Order 13132 (Federalism)

We analyzed this temporary final rule in accordance with the principles and criteria established by Executive Order 13132 and determined that the rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. We also determined that this rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that this temporary final rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security–Disability Insurance; 96.002, Social Security–Retirement Insurance; 96.004, Social Security–Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Blind, Disability benefits; Old-age, survivors, and disability insurance; Reporting and recordkeeping requirements; Social Security.

The Acting Commissioner of Social Security, Kilolo Kijakazi, Ph.D., M.S.W., having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for the Social Security Administration, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison,Office of Legislation and Congressional Affairs, Social Security Administration.

For the reasons stated in the preamble, we are amending part 404 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart P—Determining Disability and Blindness

■ 1. The authority citation for subpart P of part 404 is revised to read as follows:

Authority: 42 U.S.C. 402, 405(a)–(b) and (d)–(h), 416(i), 421(a) and (h)–(j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. In appendix 1 to subpart P of part 404:

■ a. In part A, amend section 1.00C7 by revising paragraph a; and

■ b. In part B, amend section 101.00C7 by revising paragraph a.

The revisions read as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments

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Part A

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1.00 Musculoskeletal Disorders

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C. * * *

7. * * *

a. The term *pandemic period* as used in 1.00C7c means the period beginning on April 2, 2021, and ending on May 11, 2025.

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Part B

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101.00 Musculoskeletal Disorders

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C. * * *

7. * * *

a. The term *pandemic period* as used in 101.00C7c means the period beginning on April 2, 2021, and ending on May 11, 2025.

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[FR Doc. 2023–21671 Filed 9–28–23; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 587

Publication of Russian Harmful Foreign Activities Sanctions Regulations Web General Licenses 55A and 72

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of web general licenses.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing two general licenses (GLs) issued pursuant to the Russian Harmful Foreign Activities Sanctions Regulations: GLs 55A and 72, each of which was previously made available on OFAC's website.

DATES: GLs 55A and 72 were issued on September 14, 2023. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Compliance, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *https://ofac.treasury.gov.*

Background

On September 14, 2023, OFAC issued GLs 55A and 72 to authorize certain transactions otherwise prohibited by the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587. GL 55A has an expiration date of June 28, 2024. GL 72 has an expiration date of December 13, 2023. Each GL was made available on OFAC's website (*https://ofac.treasury.gov*) at the time of publication. The text of these GLs is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 55A

Authorizing Certain Services Related to Sakhalin-2

(a) Except as provided in paragraph (b) of this general license, all transactions prohibited by the determination of November 21, 2022 made pursuant to section 1(a)(ii) of Executive Order 14071 (''Prohibitions on Certain Services as They Relate to the Maritime Transport of Crude Oil of Russian Federation Origin'') related to the maritime transport of crude oil originating from the Sakhalin-2 project (''Sakhalin-2 byproduct'') are authorized through 12:01 a.m. eastern daylight time, June 28, 2024, provided that the Sakhalin-2 byproduct is solely for importation into Japan.

(b) This general license does not authorize any transactions otherwise prohibited by the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (RuHSR), including transactions involving any person blocked pursuant to the RuHSR, unless separately authorized.

(c) Effective September 14, 2023, General License No. 55, dated November 22, 2022, is replaced and superseded in its entirety by this General License No. 55A.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

Dated: September 14, 2023.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 72

Authorizing the Wind Down of Transactions Involving Certain Entities Blocked on September 14, 2023

(a) Except as provided in paragraph (b) of this general license, all transactions prohibited by Executive Order (E.O.) 14024 that are ordinarily incident and necessary to the wind down of any transaction involving one or more of the following blocked persons (collectively, the ''Blocked Entities'') are authorized through 12:01 a.m. eastern standard time, December 13, 2023, provided that any payment to a Blocked Entity is made into a blocked account in accordance with the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (RuHSR):

(1) Joint Stock Company Russian Copper Company;

(2) Joint Stock Company United Metallurgical Company;

(3) Transmashholding JSC;

(4) Joint Stock Company Avtovaz;

(5) Joint Stock Company Moscow Automotive Factory Moskvich;

(6) Limited Liability Company Machine Building Plant Tonar;

(7) Publichnoe Aktsionernoe Obschestvo Sollers;

(8) Arctic Transshipment Limited Liability Company; or

(9) Any entity in which one or more of the above persons own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest.

(b) This general license does not authorize:

(1) Any transactions prohibited by Directive 2 under E.O. 14024, *Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions;*

(2) Any transactions prohibited by Directive 4 under E.O. 14024, *Prohibitions Related to Transactions Involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation;* or

(3) Any transactions otherwise prohibited by the RuHSR, including transactions involving any person blocked pursuant to the RuHSR other than the Blocked Entities described in paragraph (a) of this general license, unless separately authorized.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

Dated: September 14, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2023–21396 Filed 9–28–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0721]

RIN 1625–AA00

Safety Zone; Ohio River Mile Markers 79.5–80, Wellsburg, WV

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for the Ohio River from October 2 through October 5, 2023, at mile marker 79.5 to mile marker 80 from 8 a.m. through 7 p.m. each day. This action is necessary to provide for the safety of life on the navigable waters during a helicopter operation. This rule prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Pittsburgh (COTP) or a designated representative.

DATES: This rule is effective from 8 a.m. on October 2, 2023, through 7 p.m. on October 5, 2023. This rule will be enforced from 8 a.m. through 7 p.m. each day of its effective period.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0721 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 LTJG Eyobe Mills, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone 412–221–0807, email *Eyobe.D.Mills@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. This safety zone must be established by October 2, 2023, to provide for the safety of life on the navigable waters during a helicopter operation, and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the date of the helicopter operation. Vessels inside of the safety zone have the potential of getting hit by derby from the helicopter.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because action is needed by October 2, 2023, to ensure the safety of the of life on the navigable waters during a helicopter operation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Pittsburgh (COTP) has determined that potential hazards associated with a helicopter operation on October 2 through October 5, 2023, will be a safety concern for anyone on the Ohio River from mile markers 79.5 to mile marker 80 from 8 a.m. to 7 p.m. daily. The purpose of this rule is to ensure safety of the participant, vessels, and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a temporary safety zone that will be enforced each day from 8 a.m. until 7 p.m. on October 2 through October 5, 2023. The safety zone will cover all navigable waters on the Ohio River from mile markers 79.5 to mile marker 80. The duration of the zone is intended to protect personnel, vessels, and the marine environment in the navigable waters during an installation of aerial transverse wirelines using a helicopter.

No vessel or person is permitted to enter the safety zone without obtaining permission from the COTP or a designated representative of the COTP. 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 the COTP. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through Marine Safety Unit Pittsburgh at 412–221–0807. 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 through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), 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 size, location, and duration of the temporary safety zone. This safety zone only impacts a 0.5-mile stretch on the Ohio River for 11 hours each day from October 2 through October 5, 2023. Moreover, the Coast Guard will issue Local Notice to Mariners and Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission from the COTP to transit 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 rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental

jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone lasting 11 hours each day from October 2 through October 5, 2023, on the Ohio River. 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

Marine Safety, Navigation (water), Reporting, and recordkeeping requirements, 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.T08–0721 to read as follows:

§ 165.T08–0721 Safety Zone Ohio River, Wellsburg, WV.

(a) *Location.* The following area is a temporary safety zone on the Ohio River from mile marker 79.5 to mile marker 80.

(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 Pittsburgh (COTP) in the enforcement of the safety zone. Designated representative include safety boat provided by the event organizers.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on Channel 16 or at 412–670–4288. To seek permission, concerned traffic may reach contact the event organizers on channel 13 or at (304) 997–5418. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 8 a.m. through 7 p.m. from October 2, 2023, through October 5, 2023. The temporary safety zone will be enforced during the 11 hours helicopter operation.

Eric J. Velez,

Commander, U.S. Coast Guard, Captain of the Port, MSU Pittsburgh.

[FR Doc. 2023–21381 Filed 9–28–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0621]

RIN 1625–AA00

Safety Zone; Pacific Ocean, Catalina Island, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone near Ship Rock, Catalina Island, in support of the Ocean Cup Pacific Rum Run. This action is necessary to protect the area near Ship Rock, Catalina Island, public vessels, and the high-speed vessels participating in the event. This regulation would prohibit vessels from entering, transiting through, or remaining within the designated area unless specifically authorized by the

Captain of the Port, Los Angeles—Long Beach, or his designated representative.

DATES: This rule is effective from 6:30 a.m. to noon on September 29, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0621 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Kevin Kinsella, U.S. Coast Guard Sector Los Angeles—Long Beach; telephone (310) 467–2099, email *D11-SMB-SectorLALB-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Los Angeles—Long Beach
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Ocean Cup Pacific Rum Run race is planned in conjunction with the Pacific Air Show. The course begins off Huntington Beach Pier, proceeds to Ship Rock, circumnavigates Catalina Island back to Ship Rock, and returns to the finish at the Huntington Beach Pier. The Captain of the Port (COTP), Los Angeles—Long Beach has determined that potential hazards associated with event safety may arise due to the expected high concentration of vessels in the general area, along with the high-speed race vessels. For these reasons, the Coast Guard believes that a safety zone is necessary to ensure the safety of, and reduce the risk to, the public and mariners around Catalina Island.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under Section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive final details for this event until July 14, 2023. There was insufficient time to undergo the full rulemaking process, including providing a reasonable comment period and considering those comments, because the Coast Guard must establish this temporary safety zone by September 29, 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 contrary to the public interest because immediate action is needed to address potentially hazardous conditions associated with high-speed maneuvers from vessels during the race.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port (COTP), Los Angeles—Long Beach has determined that potential hazards associated with event safety may arise due to the expected high concentration of vessels in the general area along with the high-speed race vessels. The purpose of this rule is to ensure the safety of, and reduce the risk to, the public, and mariners around Catalina Island before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone from 6:30 a.m. to noon on September 29, 2023. The safety zone would encompass all navigable waters from the surface to the sea floor consisting of a line connecting the following coordinates: 33°39′11″ N, 118°0′22″ W; 33°27′42″ N, 118°29′28″ W; 33°24′51″ N, 118°30′7″ W; 33°39′5″ N, 118°0′28″ W. All coordinates displayed are referenced by North American Datum of 1983. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled race. No vessel or person will be permitted to enter the safety zone 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866, as amended by Executive Order 14094. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the safety zone. Commercial vessel traffic will be able to safely transit through this safety zone, with coordination by the Captain of the Port or their designated representative. The Coast Guard and Vessel Traffic Service/Marine Exchange will coordinate and mitigate all inbound and outbound commercial traffic movements through the racecourse. Recreational traffic will be able to transit around this safety 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 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 safety zone encompassing an area near Ship Rock, Catalina Island for the Ocean Cup Pacific Rum Run. It is categorically excluded from further review under paragraph 60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–141 to read as follows:

§ 165.T11–141 Safety Zone; Pacific Ocean, Catalina, California.

(a) *Location.* The following area is a safety zone: All navigable waters from the surface to the sea floor consisting of a line connecting the following coordinates: 33°39′11″ N, 118°0′22″ W; 33°27′42″ N, 118°29′28″ W; 33°24′51″ N, 118°30′7″ W; 33°39′5″ N, 118°0′28″ W. These coordinates are based on North American Datum of 1983.

(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 Los Angeles—Long Beach (COTP) in the enforcement of the safety zone.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by hailing Coast Guard Sector Los Angeles—Long Beach on VHF–FM Channel 16 or calling at (310) 521–3801. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This safety zone will be enforced from 6:30 a.m. to noon on September 29, 2023. The marine public will be notified of this safety zone via Broadcast Notice to Mariners. If the COTP determines that the zone need not be enforced during this entire period, the Coast Guard will announce via Broadcast Notice to Mariners when the zone will no longer be subject to enforcement.

Dated: September 21, 2023.

R.D. Manning,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles—Long Beach.

[FR Doc. 2023–21380 Filed 9–28–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0806]

RIN 1625–AA00

Safety Zone; La Quinta and Corpus Christi Shipping Channel, Ingleside, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary, moving safety zone for all navigable waters of the La Quinta and Corpus Christi Shipping Channel between gated pair lights 11 and 12 to the sea buoy. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards arising from the towing of the rig NFE PIONEER II. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port,

Sector Corpus Christi, or a designated representative.

DATES: This rule is effective without actual notice from September 29, 2023 through 6 p.m. on October 10, 2023. The rule will be subject to enforcement between 6 a.m. and 6. p.m. each day during that period.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0806 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Commander Anthony Garofalo, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361–939–5130, email *Anthony.M.Garofalo@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone immediately to protect personnel, vessels, and the marine environment from potential hazards created by the possibility that the rig, a Floating Production Unit being towed by a heavy-lift vessel, could separate from the towing vessel and float off, and we 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 the effective date of this rule would be contrary to the public interest because there are fewer than 30 days left before the towing is to occur, and publication of this rule is needed to respond to the potential safety hazards associated with towing the offshore rig through the La Quinta Channel and Corpus Christi Shipping Channel.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port, Sector Corpus Christi (COTP) has determined that hazards inherent in the towing of the rig NFE PIONEER II, which will take place between September 26, 2023 and October 10, 2023, will be a safety concern for anyone within the La Quinta and Corpus Christi Shipping Channel between gated pair lights 11 and 12 and the sea buoy. The purpose of this rule is to protect the marine environment, and to ensure safety of vessels and persons on these navigable waters who might be present in the safety zone while the rig is being towed but for the existence of the safety zone.

IV. Discussion of the Rule

This rule is subject to enforcement from 6 a.m. to 6 p.m. each day, from September 26, 2023 through October 10, 2023. The transit will begin at the Kiewit Offshore Services facility, adjacent to the La Quinta Channel between gated pair lights 11 and 12 to the sea buoy. No vessel or person will be permitted to enter the temporary, moving safety zone during the period in which the rule is subject to enforcement without obtaining permission from the COTP or a designated representative, who may be contacted on Channel 16 VHF–FM (156.8 MHz) or by telephone at 361–939–0450. The Coast Guard will issue Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts 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, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone covers a 5 nautical mile area of the La Quinta and Corpus Christi Shipping Channel near Ingleside, TX. The temporary, moving safety zone will be subject to enforcement for a period of only 12 hours a day, from September 26, 2023 through October 10, 2023. The rule does not completely prohibit vessel traffic within the waterway and it allows mariners to request 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 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 temporary moving 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 contact 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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 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 establishment of a temporary moving safety zone for navigable waters of the La Quinta Channel between gated pair lights 11 and 12 to the sea buoy. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the rig NFE PIONEER II while it is towed from Kiewit Offshore Services. It is categorically excluded from further review under paragraph L60(c), in Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.T08–0806 to read as follows:

§ 165.T08–0806 Safety Zone; La Quinta and Corpus Christi Shipping Channel, Ingleside, TX.

(a) *Location.* The following area is a safety zone: all navigable waters of the La Quinta Channel between gated pair lights 11 and 12 to the sea buoy. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative.

(b) *Enforcement period.* This section will be subject to enforcement from 6 a.m. to 6 p.m. on each day, from September 26, 2023, through October 10, 2023.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this temporary, moving safety zone is prohibited unless authorized by the COTP or a designated representative. They may be contacted on Channel 16 VHF–FM (156.8 MHz) or by telephone at 361–939–0450.

(2) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts as appropriate.

Dated: September 22, 2023.

Jason Gunning,

Captain, U.S. Coast Guard, Captain of the Port, Sector Corpus Christi.

[FR Doc. 2023–21425 Filed 9–28–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0622]

RIN 1625–AA00

Safety Zone; Pacific Ocean, Huntington Beach, California

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The U.S. Coast Guard is establishing a safety zone offshore of Huntington Beach, CA in support of the Pacific Airshow. This action is necessary to provide for the safety of life on these navigable waters in the area of the air and water demonstrations and to protect the high concentration of people attending the event. This regulation prohibits vessels from entering into, transiting through, or remaining within the designated area unless specifically authorized by the Captain of the Port, Sector Los Angeles—Long Beach (COTP), or a designated representative.

DATES: This rule is effective from 9:30 a.m. on September 29, 2023 through 5 p.m. on October 1, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0622 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LCDR Kevin Kinsella, U.S. Coast Guard Sector Los Angeles—Long Beach; telephone (310) 467–2099, email *D11-SMB-SectorLALB-WWM@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Los Angeles—Long Beach
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard received final details for this event on August 30, 2023 and the final details for a related and adjacent marine event impacting the drafting of this rule on July 14, 2023. There was insufficient time to undergo the full rulemaking process, including providing a reasonable comment period and considering those comments, because the Coast Guard must establish this temporary safety zone by September 29, 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 contrary to the public interest because immediate action is needed to address potentially hazardous conditions associated with high-speed maneuvers from aircraft and waterborne vessels for a search and rescue demonstration.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP has determined that potential hazards associated with navigational safety may arise due to multiple low flying aircraft flight paths and stunt performances over the waters off Huntington Beach. This air show will consist of numerous military and civilian aircraft performing aerobatic maneuvers at high speed within the lateral limits of an aerobatic box that would extend from the surface of the water to 15,000 feet above mean sea level (MSL). The event at Huntington Beach generates over 800 spectator craft in attendance each year. This safety zone is to ensure the safety of and reduce the risk to the public and mariners in the vicinity of the aerobatic performance.

IV. Discussion of the Rule

This rule establishes a safety zone from 9:30 a.m. on September 29, 2023, through 5 p.m. on October 1, 2023. Based on the safety risks described above, the Coast Guard is proposing to establish a safety zone in the vicinity of Huntington Beach for the Pacific Air Show. The safety zone would encompass all navigable waters from the surface to the sea floor in an area bound by the following coordinates: 33°38.391′ N; 117°58.820′ W, 33°37.984′ N; 117°59.187′ W, 33° 39.184′ N; 118°1.111′W, 33°39.591′ N; 118°0.745′ W. All coordinates displayed are referenced by North American Datum of 1983. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled race. No vessel or person will be permitted to enter the safety zone 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866, as amended by Executive Order 14094. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the safety zone. The size of the zone is the minimum necessary to provide adequate protection for the waterway's users, adjoining areas, and the public. The zone will be enforced during the scheduled times of 9:30 a.m. to 5 p.m. on three days. Commercial vessel traffic will not be affected by the establishment of the safety zone due to its overall proximity to the shore. Recreational water users will be able to transit around the safety 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 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 safety zone encompassing an area in vicinity of Huntington Beach and the Huntington Beach Pier. It is categorically excluded from further review under paragraph L60(a), in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures. It is categorically excluded from further review under paragraph 60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–140 to read as follows:

§ 165.T11–140 Safety Zone; Pacific Ocean, Huntington Beach, California.

(a) *Location.* The following area is a safety zone: All navigable waters from the surface to the sea floor consisting of a line connecting the following coordinates: 33°38.391′ N; 117°58.820′ W, 33°37.984′ N; 117°59.187′ W, 33°39.184′ N; 118°1.111′ W, 33°39.591′ N; 118°0.745′ W. These coordinates are based on North American Datum of 1983.

(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 Los Angeles-Long Beach (COTP) in the enforcement of the safety zone.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by hailing Coast Guard Sector Los Angeles—Long Beach on VHF–FM Channel 16 or calling at (310) 521–3801. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* The temporary safety zone will be enforced from 9:30 a.m. to 5 p.m. each day from September 29, 2023, to October 1, 2023. The marine public will be notified of this safety zone via Broadcast Notice to Mariners. If the COTP determines that the zone need not be enforced during this entire period, the Coast Guard will announce via Broadcast Notice to Mariners when the zone will no longer be subject to enforcement.

Dated: September 21, 2023.

R.D. Manning,

Captain, U.S. Coast Guard, Captain of the Port Los Angeles—Long Beach.

[FR Doc. 2023–21302 Filed 9–28–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2023–0342: FRL–11155–02–R10]

Air Plan Approval; Washington; Southwest Clean Air Agency, General Air Quality Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted on June 22, 2023, by the Department of Ecology in coordination with the Southwest Clean Air Agency (SWCAA). In 2017, the EPA approved a comprehensive update to *SWCAA 400 General Regulations for Air Pollution Sources* in the SIP, which includes new source review permitting requirements as well as other general requirements for sources regulated under SWCAA's jurisdiction. In this action, the EPA is approving minor updates to SWCAA 400 promulgated since our comprehensive approval in 2017.

DATES: This final rule is effective October 30, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID

No. EPA–R10–OAR–2023–0342. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov,* or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, at (206) 553–0256, or *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'' or ''our'' is used, it means the EPA.

I. Background

On June 22, 2023, Washington submitted a SIP revision to the EPA. In the submission, Southwest Clean Air Agency (SWCAA) made minor revisions to the general air quality regulations and requested, in coordination with the Washington Department of Ecology, to update the federally approved SIP. On July 31, 2023, we proposed to approve the submission (88 FR 49398). The reasons for our proposed approval are included in the proposal and will not be restated here. The public comment period closed on August 30, 2023. We received no comments on our proposed action and therefore we are finalizing our action as proposed.

II. Final Action

The EPA is approving and incorporating by reference the regulatory changes to *SWCAA 400 General Regulations for Air Pollution Sources* submitted by Washington on June 22, 2023.[1] The EPA is also approving a minor, non-substantive change to the Code of Federal Regulations (CFR) at 40 CFR 52.2470(c)—*Table 8* under the applicability subheading to more clearly reflect jurisdiction for issuing permits under the Prevention of Significant Deterioration (PSD) program. Upon the effective date of this action, the Washington SIP will include the following regulations as they apply in the SWCAA local jurisdiction:

- 400–025 Adoption of Federal Rules (adopting Federal regulations cited in the local agency rules) state effective September 10, 2021;
- 400–030 Definitions (establishing definitions used in the local agency rules) state effective September 10, 2021;
- 400–036 Portable Sources From Other Washington Jurisdictions (outlining requirements for portable sources locating within the local jurisdiction) state effective September 10, 2021;
- 400–050 Emission Standards for Combustion and Incineration Units (establishing emissions standards for sources within the local jurisdiction) state effective September 10, 2021;
- 400–060 Emission Standards for General Process Units (establishing particulate matter emissions standards) state effective March 21, 2020;
- 400–072 Small Unit Notification for Selected Source Categories (establishing uniform standards for certain small source categories) state effective September 10, 2021;
- 400–074 Gasoline Transport Tanker Registration (establishing standards for gasoline transport tankers) state effective June 18, 2017;
- 400–091 Voluntary Limits on Emissions (allowing stationary sources to take a voluntary reduction in potential to emit) state effective September 10, 2021;
- 400–105 Records, Monitoring and Reporting (establishing compliance requirements on stationary sources) state effective September 10, 2021;
- 400–106 Emission Testing and Monitoring at Air Contaminant Sources (establishing emissions testing standards for sources and emissions units) state effective September 10, 2021;
- 400–109 Air Discharge Permit Applications (establishing permit processes for new sources in the local jurisdiction) state effective September 10, 2021;
- 400–110 Application Review Process for Stationary Sources (New Source Review) (establishing agency review standards for air permit applications) state effective September 10, 2021;
- 400–111 Requirements for New Sources in a Maintenance Plan Area (establishing specific permit requirements within a former nonattainment area) state effective September 10, 2021;
- 400–112 Requirements for New Sources in Nonattainment Areas (establishing permit requirements for current nonattainment areas) state effective September 10, 2021;
- 400–113 Requirements for New Sources in Attainment or Nonclassifiable Areas (establishing permit requirements in areas that have not been designated as nonattainment for criteria pollutants) state effective September 10, 2021;
- 400–114 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source (establishing permit requirements for modification of emissions controls at existing facilities) state effective September 10, 2021;
- 400–136 Maintenance of Emission Reduction Credits in Bank (supporting an emissions reduction trading program) state effective September 10, 2021;
- 400–151 Retrofit Requirements for Visibility Protection (establishing requirements to minimize regional haze) state effective September 10, 2021;
- 400–171 Public Involvement (establishing public notice and other requirements for agency actions) state effective September 10, 2021;
- 400–260 Conflict of Interest (requires SWCAA board members to comply with Clean Air Act section 128) state effective September 10, 2021;
- 400–810 Major Stationary Source and Major Modification Definitions (establishing specific definitions for permitting requirements at major sources located in a nonattainment area) state effective September 10, 2021;
- 400–850 Actual Emissions—Plantwide Applicability Limitation (PAL) (adopting the Federal Emission Offset Ruling) state effective March 21, 2020;
- Appendix A SWCAA Method 9 Visual Opacity Determination Method (establishing test methods for opacity compliance) state effective March 21, 2020.

In addition to the regulations approved and incorporated by reference above, the EPA reviews and approves state and local clean air agency submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing such agency enforcement and other general authority are generally not incorporated by reference so as to avoid potential conflict with the EPA's independent authorities. We are therefore approving the submitted revisions, effective September 10, 2021, to sections 400–230, 400–240, 400–270, and 400–280 in 40 CFR 52.2470(e), *EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures.*

[1] On June 22, 2023, Washington also submitted a separate SIP revision titled ''Startup, Shutdown, and Malfunction (SSM) Provisions in Southwest Clean Air Agency 400 General Regulations for Air Pollution Sources'' which is outside the scope of this action.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the Southwest Clean Air Agency regulatory provisions described in section II of this preamble and set forth in the amendments to 40 CFR part 52 in this document. The EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the Clean Air Act as of the effective date of the final rule of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[2]

IV. Statutory and Executive Order Reviews

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

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

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

The Southwest Clean Air Agency and the Washington Department of Ecology did not evaluate environmental justice considerations as part of its SIP submittal; the Clean Air Act and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 22, 2023.

Casey Sixkiller,

Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart WW—Washington

■ 2. Amend § 52.2470 as follows:
■ a. In paragraph (c), table 8 by:
■ i. Revising the table heading;
■ ii. Under the heading ''SWCAA 400—General Regulations for Air Pollution Sources'':
■ A. Adding an entry for ''400–025'' in numerical order;
■ B. Revising the entries for ''400–030'', ''400–036'', ''400–050'', ''400–060'', ''400–072'';

[2] 62 FR 27968 (May 22, 1997).

■ C. Adding an entry for ''400–072(5)(b)'' in numerical order;
■ D. Revising the entries for ''400–074'', ''400–091'', ''400–105'', ''400–106'', ''400–109'', ''400–110'', ''400–111'', ''400–112'', ''400–113'', ''400–114'', ''400–136'', ''400–151'', ''400–171'';
■ E. Adding an entry for ''400–260'' in numerical order; and
■ F. Revising the entries ''400–810'', ''400–850'' and ''Appendix A''; and
■ b. In paragraph (e), table 1, under the heading ''Southwest Clean Air Agency Regulations'' by:
■ i. Revising the entries for ''400–230'' and ''400–240'';
■ ii. Removing the entry for ''400–260''; and
■ iii. Revising the entries for ''400–270'', and ''400–280''.

The revisions and additions read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Southwest Clean Air Agency Regulations SWCAA 400—General Regulations for Air Pollution Sources				
*	*	*	*	*
400–025	Adoption of Federal Rules	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
400–030	Definitions	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: 400–030(21) and (130).
400–036	Portable Sources from Other Washington Jurisdictions.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
*	*	*	*	*
400–050	Emission Standards for Combustion and Incineration Units.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: 400–050(3); 400–050(5); 400–050(6); and 400–050(7).
400–060	Emission Standards for General Process Units.	3/21/20	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
*	*	*	*	*
400–072	Small Unit Notification for Selected Source Categories.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: 400–072(5)(a)(ii)(B); 400–072(5)(d)(ii)(B); 400–072(5)(d)(iii)(A); 400–072(5)(d)(iii)(B); all reporting requirements related to toxic air pollutants; and 400–072(5)(b), which EPA previously approved with a state-effective date of October 9, 2016.
400–072 (5)(b)	Small Unit Notification for Selected Source Categories.	10/9/16	04/10/17, 82 FR 17136.	
400–074	Gasoline Transport Tanker Registration.	6/18/17	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: 400–074(2).
*	*	*	*	*
400–091	Voluntary Limits on Emissions.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
400–105	Records, Monitoring and Reporting.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: reporting requirements related to toxic air pollutants.
400–106	Emission Testing and Monitoring at Air Contaminant Sources.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: 400–106(1)(d) through (g); and 400–106(2).
*	*	*	*	*
400–109	Air Discharge Permit Applications.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: The toxic air pollutant emissions thresholds contained in 400–109(3)(d); 400–109(3)(e)(ii); and 400–109(4).
400–110	Application Review Process for Stationary Sources (New Source Review).	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: 400–110(1)(d).
400–111	Requirements for New Sources in a Maintenance Plan Area.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: 400–111(7).

TABLE 8—ADDITIONAL REGULATIONS APPROVED FOR THE SOUTHWEST CLEAN AIR AGENCY (SWCAA) JURISDICTION—Continued

[Applicable in Clark, Cowlitz, Lewis, Skamania and Wahkiakum counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
400–112	Requirements for New Sources in Nonattainment Areas.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: 400–112(6).
400–113	Requirements for New Sources in Attainment or Nonclassifiable Areas.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: 400–113(5).
400–114	Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
*	* *	*	* *	* *
400–136	Maintenance of Emission Reduction Credits in Bank.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
400–151	Retrofit Requirements for Visibility Protection.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
*	* *	*	* *	* *
400–171	Public Involvement	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	Except: 400–171(2)(a)(xii).
*	* *	*	* *	* *
400–260	Conflict of Interest	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
*	* *	*	* *	* *
400–810	Major Stationary Source and Major Modification Definitions.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
*	* *	*	* *	* *
400–850	Actual Emissions—Plantwide Applicability Limitation (PAL).	3/21/20	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
*	* *	*	* *	* *
Appendix A	SWCAA Method 9 Visual Opacity Determination Method.	3/21/20	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
*	* *	*	* *	* *

* * * * * (e) * * *

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
*	* *	*	* *	* *
Southwest Clean Air Agency Regulations				
*	* *	*	* *	* *
400–230	Regulatory Actions and Civil Penalties	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
400–240	Criminal Penalties	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS—Continued

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
*	*	*	*	*
400–270	Confidentiality of Records and Information.	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
400–280	Powers of Agency	9/10/21	9/29/23, [INSERT **FEDERAL REGISTER** CITATION].	
*	*	*	*	*

* * * * *

[FR Doc. 2023–21267 Filed 9–28–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 97

[EPA–HQ–OAR–2021–0668; FRL–8670.3–01–OAR]

Federal ''Good Neighbor Plan'' for the 2015 Ozone National Ambient Air Quality Standards; Response to Additional Judicial Stays of SIP Disapproval Action for Certain States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule; request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is taking interim final action to stay, for emissions sources in Alabama, Minnesota, Nevada, Oklahoma, Utah, and West Virginia only, the effectiveness of the Federal Implementation Plan (FIP) requirements established to address the obligations of these and other States to mitigate interstate air pollution with respect to the 2015 national ambient air quality standards (NAAQS) for ozone (the Good Neighbor Plan). The EPA is also revising certain other regulations to ensure the continued implementation of previously established requirements to mitigate interstate air pollution with respect to other ozone NAAQS while the Good Neighbor Plan's requirements are stayed. The stay and the associated revisions to other regulations are being issued in response to judicial orders that partially stay, pending judicial review, a separate EPA action which disapproved certain State Implementation Plan (SIP) revisions submitted by these and other States.

DATES: This interim final rule is effective on September 29, 2023. Comments on this rule must be received on or before October 30, 2023.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2021–0668, by any of the following methods:

- *Federal eRulemaking portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand delivery or courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Lifland, Clean Air Markets Division, Office of Atmospheric Protection, Office of Air and Radiation, U.S. Environmental Protection Agency, Mail Code 6204A, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone: 202–343–9151; email: *lifland.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General

A. Public Participation

Submit your written comments, identified by Docket ID No. EPA–HQ–OAR–2021–0668, at *https://www.regulations.gov* (our preferred method), or by the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), 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). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

B. Potentially Affected Entities

This action revises on an interim basis the Good Neighbor Plan, which applies to electric generating units (EGUs) and non-EGU industrial sources. This action also revises other allowance trading program regulations that apply to EGUs but not to non-EGU industrial sources. The affected emissions sources are generally in the following industry groups:

Industry group	North American Industry Classification System (NAICS) code
Fossil Fuel Electric Power Generation	221112
Pipeline Transportation of Natural Gas	4862
Cement and Concrete Product Manufacturing	3273
Iron and Steel Mills and Ferroalloy Manufacturing	3311
Glass and Glass Product Manufacturing	3272
Basic Chemical Manufacturing	3251

Industry group	North American Industry Classification System (NAICS) code
Petroleum and Coal Products Manufacturing	3241
Pulp, Paper, and Paperboard Mills	3221
Metal Ore Mining	2122
Solid Waste Combustors and Incinerators	562213

As signed in March 2023, the Good Neighbor Plan applies to emissions sources in Alabama, Arkansas, California, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, Utah, Virginia, West Virginia, and Wisconsin. The Good Neighbor Plan's requirements for emissions sources in Arkansas, Kentucky, Louisiana, Mississippi, Missouri, and Texas were stayed in a previous action. This action stays the Good Neighbor Plan's requirements for emissions sources in Alabama, Minnesota, Nevada, Oklahoma, Utah, and West Virginia.

The information provided in this section on potentially affected entities is not intended to be exhaustive. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

C. Statutory Authority

Statutory authority to issue the amendments finalized in this action is provided by the same Clean Air Act (CAA) provisions that provided authority to issue the regulations being amended: CAA section 110(a) and (c), 42 U.S.C. 7410(a) and (c) (SIP and FIP requirements, including requirements for mitigation of interstate air pollution), and CAA section 301, 42 U.S.C. 7601 (general rulemaking authority). Statutory authority for the rulemaking procedures followed in this action is provided by Administrative Procedure Act (APA) section 553, 5 U.S.C. 553.

II. Regulatory Revisions

In a previous action (referred to here as the First Interim Final Rule),[1] the EPA stayed on an interim basis, for EGUs and non-EGU industrial sources in Arkansas, Kentucky, Louisiana, Mississippi, Missouri, and Texas, the effectiveness of the FIP requirements established to address the obligations of these and other States to mitigate interstate air pollution with respect to the 2015 ozone NAAQS (referred to here as the Good Neighbor Plan).[2] To ensure the continued implementation of previously established requirements to mitigate interstate air pollution with respect to other ozone NAAQS, the First Interim Final Rule also required EGUs in these States to participate in the Cross-State Air Pollution Rule (CSAPR) NO_X Ozone Season ''Group 2'' Trading Program while the Good Neighbor Plan's requirements for these EGUs to participate in the CSAPR NO_X Ozone Season ''Group 3'' Trading Program are stayed. The stay and the associated revisions to other regulations were issued in response to judicial orders that partially stay, pending judicial review, a separate EPA action which disapproved certain SIP revisions submitted by these and other States (the SIP Disapproval action).[3]

Since the EPA submitted the First Interim Final Rule for publication in the **Federal Register**, courts have issued orders granting partial stays of the SIP Disapproval action as to several additional States. The U.S. Courts of Appeals for the Eighth, Ninth, and Eleventh Circuits granted judicial stays pending review on the merits as to Minnesota,[4] Nevada,[5] and Alabama,[6] respectively, and the U.S. Court of Appeals for the Tenth Circuit did the same as to Oklahoma and Utah.[7] In addition, the U.S. Court of Appeals for the Fourth Circuit issued an administrative stay as to West Virginia pending oral argument on West Virginia's motion to stay and the EPA's motion to transfer venue or dismiss.[8] Finally, the U.S. Court of Appeals for the Sixth Circuit granted a judicial stay pending review on the merits as to Kentucky which supersedes the administrative stay previously in effect as to that State.[9]

To respond to the stay orders as to the additional States, in this action the EPA is modifying and supplementing the regulatory revisions adopted in the First Interim Final Rule. The effect of this action is that emissions sources in Alabama, Minnesota, Nevada, Oklahoma, Utah,[10] and West Virginia (and Indian country within the borders of the States) will not be subject to the Good Neighbor Plan's requirements promulgated to address the States' good neighbor obligations with respect to the 2015 ozone NAAQS while the stay orders covering the States remain in place (*i.e.,* at least for the 2023 ozone season and possibly longer). After the courts have reached final determinations on the merits in these proceedings (or possibly in the case of West Virginia, a final determination to deny the stay motion or to grant the motion to transfer venue or dismiss), the EPA will take further action consistent with the final determinations. At the time of this rulemaking, the EPA cannot predict how the Agency's future action may affect the amendments being finalized in this action. However, for these States, as well as the States covered by the First Interim Final Rule, the EPA generally anticipates that any future action bringing the Good Neighbor Plan's requirements into effect after a stay would phase in the requirements so as to provide lead times

[1] Federal ''Good Neighbor Plan'' for the 2015 Ozone National Ambient Air Quality Standards; Response to Judicial Stays of SIP Disapproval Action for Certain States, 88 FR 49295 (July 31, 2023).

[2] Federal ''Good Neighbor Plan'' for the 2015 Ozone National Ambient Air Quality Standards, 88 FR 36654 (June 5, 2023).

[3] Air Plan Disapprovals; Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards, 88 FR 9336 (February 13, 2023).

[4] Order, *Allete, Inc.* v. *EPA,* No. 23–1776 (8th Cir. July 5, 2023), available in the docket.

[5] Order, *Nevada Cement Co.* v. *EPA,* No. 23–682 (9th Cir. July 3, 2023), available in the docket.

[6] Order, *Alabama* v. *EPA,* No. 23–11173, and *Alabama Power Co.* v. *EPA,* No. 11196 (11th Cir. August 17, 2023), available in the docket.

[7] Order, *Utah* v. *EPA,* No. 23–9509, *PacifiCorp* v. *EPA,* No. 23–9512, *Utah Associated Municipal Power Systems* v. *EPA,* No. 23–9520, *Oklahoma* v. *EPA,* No. 23–9514, *Oklahoma Gas & Electric Co.* v. *EPA,* No. 23–9521, *Tulsa Cement LLC* v. *EPA,* No. 23–9533, and *Western Farmers Electric Cooperative* v. *EPA,* No. 23–9534 (10th Cir. July 27, 2023), available in the docket.

[8] Order, *West Virginia* v. *EPA,* No. 23–1418 (4th Cir. August 10, 2023), available in the docket. Oral argument on the motions is scheduled for October 27, 2023.

[9] Order, *Kentucky* v. *EPA,* No. 23–3216, and *Kentucky Energy and Environment Cabinet* v. *EPA,* No. 23–3225 (6th Cir. July 25, 2023) (judicial stay order); *see also* Order, *Kentucky* v. *EPA,* No. 23–3216 (6th Cir. May 31, 2023) (administrative stay order). (Both orders are available in the docket.) The EPA's response to the administrative stay order in the First Interim Final Rule also serves as a complete response to the more recent judicial stay order, with the consequence that no additional response to the judicial stay order as to Kentucky is necessary in this action.

[10] The EPA's authority to implement the Good Neighbor Plan's FIP requirements as to emissions sources in Utah has two independent statutory bases: first, the Agency's finding of the state's failure to submit a good neighbor SIP for the 2015 ozone NAAQS, 84 FR 66612 (December 5, 2019), and second, the Agency's disapproval of the state's subsequently submitted SIP in the SIP Disapproval action. *See* CAA section 110(c)(1). However, the order staying the SIP Disapproval action as to Utah includes the statement that ''EPA may not enforce its Federal Good Neighbor Plan for the 2015 ozone NAAQS against . . . Utah while the stay remains in place.'' Order, *supra* note 7, at 4. To comply with the order, the EPA is therefore staying the effectiveness of the Good Neighbor Plan's requirements as to emissions sources in Utah notwithstanding the Agency's independent basis for FIP authority arising from the finding of Utah's failure to submit a good neighbor SIP.

to implement the Good Neighbor Plan's identified emissions control strategies comparable to the lead times that the Good Neighbor Plan would have provided in the absence of the stay, thereby giving parties sufficient time to prepare for implementation.

The remainder of this section describes the specific regulatory revisions being adopted in this action.[11] For further background and discussion of the basis for the regulatory revisions, see the First Interim Final Rule at 88 FR 49296–97.

To implement the stay orders with respect to non-EGU industrial sources in Nevada, Oklahoma, Utah, and West Virginia (and Indian country within the borders of the States), the EPA is adding these States to the list of States covered by the stay provision for non-EGU industrial sources adopted in the First Interim Final Rule at 40 CFR 52.40(c)(4) and is adding parallel text in the state-specific subpart of 40 CFR part 52 for each of the States.[12] No equivalent stay provisions are necessary for Alabama or Minnesota because the Good Neighbor Plan's requirements for non-EGU industrial sources do not apply to emissions sources in Alabama or Minnesota.

To implement the stay orders with respect to EGUs in Alabama, Oklahoma, and West Virginia (and Indian country within the borders of the States), the EPA is adding these States to the lists of States covered by the stay provisions for EGUs adopted in the First Interim Final Rule at 40 CFR 52.38(b)(2)(iii)(D)(*1*) (West Virginia) and 40 CFR 52.38(b)(2)(iii)(D)(*2*) (Alabama and Oklahoma) and is adding parallel text in the state-specific subparts of 40 CFR part 52 for each of the States.[13] In combination with other provisions adopted in the First Interim Final Rule at 40 CFR 52.38(b)(2)(ii)(D), the revisions will require the EGUs in each of these States to participate in the Group 2 trading program instead of the Group 3 trading program while a stay for the State remains in effect.[14] The EPA is also revising the Group 2 trading program regulations at 40 CFR 97.810 and 97.821 and the Group 3 trading program regulations at 40 CFR 97.1026 to continue to provide the same amounts for State emissions budgets, variability limits, unit-level allowance allocations, and banked allowance holdings that would have applied for these States in the absence of the Good Neighbor Plan.

To implement the stay orders with respect to EGUs in Minnesota, Nevada, and Utah (and Indian country within the borders of the States), the EPA is adding a new stay provision for EGUs in these States at 40 CFR 52.38(b)(2)(iii)(D)(*3*) and is adding parallel text in the state-specific subparts of 40 CFR part 52 for each of the States.[15] Unlike the stay provisions adopted in the First Interim Final Rule for EGUs in Arkansas, Kentucky, Louisiana, Mississippi, Missouri, and Texas and extended in this action to EGUs in Alabama, Oklahoma, and West Virginia, the stay provision for EGUs in Minnesota, Nevada, and Utah is not accompanied by requirements under 40 CFR 52.38(b)(2)(ii)(D) to participate in the Group 2 trading program while the stay for a State is in effect, because EGUs in Minnesota, Nevada, and Utah are not subject to previously established requirements to mitigate interstate air pollution with respect to other ozone NAAQS.

Finally, the EPA is making stay-related revisions to two cross-references in the Group 2 and Group 3 trading program regulations. First, a revision at 40 CFR 97.826(e)(1) clarifies that, like EGUs in other States covered by stay orders, EGUs in Minnesota, Nevada, and Utah will be excluded from the one-time procedures converting Group 2 allowances into an initial bank of Group 3 allowances. Second, a revision at 40 CFR 97.1026(d)(2)(ii) clarifies that emissions budgets for States covered by stay orders will be excluded from calculations of the allowance bank target amounts used in the Group 3 trading program's annual bank recalibration procedure.

III. Rulemaking Procedures and Findings of Good Cause

As noted in section I.C of this document, the EPA's authority for the rulemaking procedures followed in this action is provided by APA section 553.[16] In general, an agency issuing a rule under the procedures in APA section 553 must provide prior notice and an opportunity for public comment, but APA section 553(b)(B) includes an exemption from notice-and-comment requirements ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' This action is being issued as an interim final rule without prior notice or opportunity for public comment because the EPA finds that the APA ''good cause'' exemption from notice-and-comment requirements applies here.

The basis for the finding of good cause is that following notice-and-comment procedures is unnecessary for this action. The EPA has no discretion as to whether to stay the effectiveness of the Good Neighbor Plan's requirements for emissions sources in the States covered by the additional stay orders. While some superficial discretion exists concerning the specific design of the regulatory revisions that provide an alternate mechanism for EGUs in States covered by the stay orders to continue to address the States' good neighbor obligations with respect to other ozone NAAQS, no discretion exists as to the function of that design, which is to maintain the status quo by implementing requirements that are substantively identical to the pre-existing requirements that would have continued to apply in the absence of the Good Neighbor Plan. The EPA's design for the regulatory revisions in this action accomplishes this function. Taking comment so as to allow the public to advocate for not staying the Good Neighbor Plan's requirements, not adopting regulatory revisions needed to implement requirements that are substantively identical to the requirements that would have applied in the absence of the Good Neighbor Plan, or adopting superficially different regulatory revisions to accomplish the same function would serve no purpose and is therefore unnecessary.

The regulatory revisions made in this action will take effect immediately upon publication of the action in the **Federal Register**. In general, an agency issuing a rule under APA section 553 must

[11] The EPA has included a document in the docket that shows all the regulatory revisions being adopted in this action in redline-strikeout format.

[12] *See* §§ 52.1492(b)(2) (Nevada), 52.1930(b)(2) (Oklahoma), 52.2356(b)(2) (Utah), 52.2540(c)(2) (West Virginia).

[13] *See* §§ 52.54(b)(6) (Alabama), 52.1930(a)(6) (Oklahoma), 52.2540(b)(6) (West Virginia).

[14] Like EGUs in Arkansas, Mississippi, Missouri, and Texas, EGUs in Alabama and Oklahoma were covered by the Group 2 trading program before the Good Neighbor Plan and therefore will use ''Original Group 2'' allowances for compliance. Like EGUs in Kentucky and Louisiana, EGUs in West Virginia were already covered by the Group 3 trading program before the Good Neighbor Plan and therefore will use ''Expanded Group 2'' allowances for compliance. For further discussion of the regulatory provisions relating to Original Group 2 and Expanded Group 2 allowances, see the First Interim Final Rule at 88 FR 49297–98.

[15] *See* §§ 52.1240(d)(3) (Minnesota), 52.1492(a)(3) (Nevada), 52.2356(a)(3) (Utah).

[16] Under CAA section 307(d)(1)(B), the EPA's revision of a FIP under CAA section 110(c) would normally be subject to the rulemaking procedural requirements of CAA section 307(d), including notice-and-comment procedures, but CAA section 307(d) does not apply ''in the case of any rule or circumstance referred to in subparagraphs (A) or (B) of [APA section 553(b)].'' CAA section 307(d)(1).

provide for a period of at least 30 days between the rule's dates of publication and effectiveness, but APA section 553(d) includes several exceptions. Under APA section 553(d)(1), an exception applies to a rule that ''grants or recognizes an exemption or relieves a restriction.'' Because the portions of this action that stay the effectiveness of the Good Neighbor Plan's requirements for emissions sources in certain States grant an exemption (on an interim basis while the stay remains in place), the normal 30-day minimum period between this action's dates of publication and effectiveness is not required. The EPA is making these portions of the action effective as of the action's publication date to comply with the stay orders in a timely manner.

Under APA section 553(d)(3), the normal 30-day minimum period between a rule's dates of publication and effectiveness does not apply ''as otherwise provided by the agency for good cause found and published with the rule.'' With respect to the portions of this action that provide an alternate mechanism for EGUs in the States covered by the stay orders to continue to address the States' good neighbor obligations under rules issued before the Good Neighbor Plan, the EPA finds good cause to make the regulatory revisions effective as of the action's publication date for the following reasons. First, these regulatory revisions benefit the public by avoiding the possibility that interruption of the previously established requirements would cause air quality degradation. Second, these regulatory revisions benefit the regulated community by clarifying the regulatory requirements that apply in light of the stay orders. Finally, making these regulatory revisions effective less than 30 days after this action's publication date does not violate the purpose of the normal requirement for a 30-day minimum period, which is ''to give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' [17] The regulatory revisions in this action facilitating continued implementation of previously established requirements impose no requirements on any emissions source that differ substantively from the requirements that would have applied to that source in the absence of the Good Neighbor Plan. Thus, no affected party needs time to adjust its behavior in preparation for these regulatory revisions.

[17] *Omnipoint Corp.* v. *FCC,* 78 F.3d 620, 630 (D.C. Cir. 1996).

IV. Request for Comment

As explained in section III of this document, the EPA finds good cause to take this interim final action without prior notice or opportunity for public comment. However, the EPA is providing an opportunity for comment on the content of the amendments. The EPA requests comment on this rule. The EPA is not reopening for comment any provisions of the Good Neighbor Plan, 40 CFR part 52, or 40 CFR part 97 other than the specific provisions that are expressly added or amended in this rule.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The Office of Management and Budget (OMB) has previously approved the information collection activities that will apply to the EGUs affected by this action and has assigned OMB control numbers 2060–0258 and 2060–0667. Additional information collection activities that will apply to EGUs and non-EGU industrial sources under the Good Neighbor Plan have been submitted to OMB for approval in conjunction with that rulemaking. This action makes no changes to the information collection activities under the previously approved information collection requests (ICRs) or the additional information collection activities for which approval has been requested in the Good Neighbor Plan's ICRs.

C. Regulatory Flexibility Act (RFA)

This action is not subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under APA section 553 or any other statute. This rule is not subject to notice-and-comment requirements because the Agency has invoked the APA ''good cause'' exemption under 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any State, local, or Tribal governments or the private sector. This action simply stays the effectiveness of certain regulatory requirements for certain emissions sources on an interim basis in response to procedural court orders while ensuring that previously applicable regulatory requirements remain in effect.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. This action simply stays the effectiveness of certain regulatory requirements for certain emissions sources on an interim basis in response to procedural court orders while ensuring that previously applicable regulatory requirements remain in effect. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action responds to court orders issued by several U.S. Courts of Appeals and the EPA lacks discretion to deviate from those orders. The EPA's assessment of health and safety risks for the action establishing the requirements that are being stayed is discussed in Chapter 5 of the regulatory

impact analysis for the Good Neighbor Plan.[18]

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations. This action responds to court orders issued by several U.S. Courts of Appeals and the EPA lacks discretion to deviate from those orders. The EPA's assessment of environmental justice considerations for the action establishing the requirements that are being stayed is discussed in section VII of the Good Neighbor Plan preamble.[19]

K. Congressional Review Act (CRA)

This action is subject to the Congressional Review Act (CRA), 5 U.S.C. 801–808, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in section III of this document, including the basis for that finding.

L. Judicial Review

CAA section 307(b)(1) governs judicial review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit): (i) when the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, but ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' For locally or regionally applicable final actions, the CAA reserves to the EPA complete discretion to decide whether to invoke the exception in (ii).[20]

This rulemaking is ''nationally applicable'' within the meaning of CAA section 307(b)(1). In this action, in response to court orders, the EPA is amending on an interim basis the Good Neighbor Plan,[21] which the EPA developed by applying a uniform legal interpretation and common, nationwide analytical methods to address the requirements of CAA section 110(a)(2)(D)(i)(I) concerning interstate transport of pollution (*i.e.,* ''good neighbor'' requirements) for the 2015 ozone NAAQS. Based on that nationwide analysis, the Good Neighbor Plan established FIP requirements for emissions sources in 23 States located across eight EPA Regions and ten Federal judicial circuits. Given that this action amends an action implementing the good neighbor requirements of CAA section 110(a)(2)(D)(i)(I) in a large number of States located across the country and given the interdependent nature of interstate pollution transport and the common core of knowledge and analysis involved in promulgating the FIP requirements, this is a ''nationally applicable'' action within the meaning of CAA section 307(b)(1).

In the alternative, to the extent a court finds this action to be locally or regionally applicable, the Administrator is exercising the complete discretion afforded to him under the CAA to make and publish a finding that this action is based on a determination of ''nationwide scope or effect'' within the meaning of CAA section 307(b)(1). In this action, in response to court orders, the EPA is amending on an interim basis the Good Neighbor Plan, an action in which the EPA interpreted and applied section 110(a)(2)(D)(i)(I) of the CAA for the 2015 ozone NAAQS based on a common core of nationwide policy judgments and technical analysis concerning the interstate transport of pollutants throughout the continental United States. Based on that nationwide analysis, the Good Neighbor Plan established FIP requirements for emissions sources in 23 States located across eight EPA Regions and ten Federal judicial circuits. This action adjusts temporarily the scope and operation of the Good Neighbor Plan for six States in response to court orders, and also implements necessary measures to ensure the status quo is maintained with respect to existing obligations under previously issued regulations (that were themselves nationally applicable or based on a determination of nationwide scope or effect found and published by the EPA [22]).

The Administrator finds that, like the Good Neighbor Plan which it amends, this action is a matter on which national uniformity in judicial resolution of any petitions for review is desirable, to take advantage of the D.C. Circuit's administrative law expertise, and to facilitate the orderly development of the basic law under the Act. The Administrator also finds that consolidated review of this action in the D.C. Circuit will avoid piecemeal litigation in the regional circuits, further judicial economy, and eliminate the risk of inconsistent results for different States, and that a nationally consistent approach to the CAA's mandate concerning interstate transport of ozone pollution constitutes the best use of Agency resources.

For these reasons, this final action is nationally applicable or, alternatively, the Administrator is exercising the complete discretion afforded to him by the CAA and finds that this final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1) and is publishing that finding in the **Federal Register**. Under CAA section 307(b)(1), petitions for judicial review of this action must be filed in the D.C. Circuit by November 28, 2023.

[18] *See* Regulatory Impact Analysis for the Final Federal Good Neighbor Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard (March 2023) at 197–257, available in the docket.

[19] *See* 88 FR 36844–46.

[20] *Sierra Club* v. *EPA,* 47 F.4th 738, 745 (D.C. Cir. 2022) (''EPA's decision whether to make and publish a finding of nationwide scope or effect is committed to the agency's discretion and thus is unreviewable''); *Texas* v. *EPA,* 983 F.3d 826, 834–35 (5th Cir. 2020).

[21] The Good Neighbor Plan is nationally applicable or based on a determination of nationwide scope or effect found and published by the EPA. *See* 88 FR 36859–60.

[22] *See* 86 FR 23163–64; 81 FR 74585–86.

List of Subjects

40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Sulfur dioxide.

40 CFR Part 97

Environmental protection, Administrative practice and procedure, Air pollution control, Electric power plants, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Michael S. Regan,
Administrator.

For the reasons stated in the preamble, parts 52 and 97 of title 40 of the *Code of Federal Regulations* are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart A—General Provisions

■ 2. Amend § 52.38 by:
■ a. In paragraph (b)(2)(iii)(D)(*1*), removing ''Kentucky and Louisiana'' and adding in its place ''Kentucky, Louisiana, and West Virginia'';
■ b. In paragraph (b)(2)(iii)(D)(*2*), removing ''Arkansas, Mississippi, Missouri, and Texas'' and adding in its place ''Alabama, Arkansas, Mississippi, Missouri, Oklahoma, and Texas''; and
■ c. Adding paragraph (b)(2)(iii)(D)(*3*).

The addition reads as follows:

§ 52.38 What are the requirements of the Federal Implementation Plans (FIPs) for the Cross-State Air Pollution Rule (CSAPR) relating to emissions of nitrogen oxides?

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(D) * * *

(*3*) The effectiveness of paragraph (b)(2)(iii)(C) of this section is stayed for sources in Minnesota, Nevada, and Utah and Indian country located within the borders of such States with regard to emissions occurring in 2023 and thereafter. While a stay under this paragraph (b)(2)(iii)(D)(*3*) is in effect for a State, such State shall be deemed not to be listed in paragraph (b)(2)(iii)(C) of this section for purposes of part 97 of this chapter.

* * * * *

§ 52.40 [Amended]

■ 3. Amend § 52.40 in paragraph (c)(4) by removing ''Missouri, and Texas'' and adding in its place ''Missouri, Nevada, Oklahoma, Texas, Utah, and West Virginia''.

Subpart B—Alabama

■ 4. Amend § 52.54 by adding paragraph (b)(6) to read as follows:

§ 52.54 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?

* * * * *

(b) * * *

(6) Notwithstanding any other provision of this part, the effectiveness of paragraph (b)(3) of this section is stayed with regard to emissions occurring in 2023 and thereafter, provided that while such stay remains in effect, the provisions of paragraph (b)(2) of this section shall apply with regard to such emissions.

Subpart Y—Minnesota

■ 5. Amend § 52.1240 by adding paragraph (d)(3) to read as follows:

§ 52.1240 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?

* * * * *

(d) * * *

(3) Notwithstanding any other provision of this part, the effectiveness of paragraph (d)(1) of this section is stayed with regard to emissions occurring in 2023 and thereafter.

Subpart DD—Nevada

■ 6. Amend § 52.1492 by:
■ a. Adding paragraph (a)(3); and
■ b. Redesignating paragraph (b) as paragraph (b)(1) and adding paragraph (b)(2).

The additions read as follows:

§ 52.1492 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?

(a) * * *

(3) Notwithstanding any other provision of this part, the effectiveness of paragraph (a)(1) of this section is stayed with regard to emissions occurring in 2023 and thereafter.

(b) * * *

(2) Notwithstanding any other provision of this part, the effectiveness of paragraph (b)(1) of this section is stayed.

Subpart LL—Oklahoma

■ 7. Amend § 52.1930 by:
■ a. Adding paragraph (a)(6); and
■ b. Redesignating paragraph (b) as paragraph (b)(1) and adding paragraph (b)(2).

The additions read as follows:

§ 52.1930 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?

(a) * * *

(6) Notwithstanding any other provision of this part, the effectiveness of paragraph (a)(3) of this section is stayed with regard to emissions occurring in 2023 and thereafter, provided that while such stay remains in effect, the provisions of paragraph (a)(2) of this section shall apply with regard to such emissions.

(b) * * *

(2) Notwithstanding any other provision of this part, the effectiveness of paragraph (b)(1) of this section is stayed.

Subpart TT—Utah

■ 8. Amend § 52.2356 by:
■ a. Adding paragraph (a)(3); and
■ b. Redesignating paragraph (b) as paragraph (b)(1) and adding paragraph (b)(2).

The additions read as follows:

§ 52.2356 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?

(a) * * *

(3) Notwithstanding any other provision of this part, the effectiveness of paragraph (a)(1) of this section is stayed with regard to emissions occurring in 2023 and thereafter.

(b) * * *

(2) Notwithstanding any other provision of this part, the effectiveness of paragraph (b)(1) of this section is stayed.

Subpart XX—West Virginia

■ 9. Amend § 52.2540 by:
■ a. Adding paragraph (b)(6); and
■ b. Redesignating paragraph (c) as paragraph (c)(1) and adding paragraph (c)(2).

The additions read as follows:

§ 52.2540 Interstate pollutant transport provisions; What are the FIP requirements for decreases in emissions of nitrogen oxides?

* * * * *

(b) * * *

(6) Notwithstanding any other provision of this part, the effectiveness of paragraph (b)(3) of this section is stayed with regard to emissions occurring in 2023 and thereafter, provided that while such stay remains in effect, the provisions of paragraph (b)(2) of this section shall apply with regard to such emissions.

(c) * * *

(2) Notwithstanding any other provision of this part, the effectiveness of paragraph (c)(1) of this section is stayed.

PART 97—FEDERAL NO_X BUDGET TRADING PROGRAM, CAIR NO_X AND SO_2 TRADING PROGRAMS, CSAPR NO_X AND SO_2 TRADING PROGRAMS, AND TEXAS SO_2 TRADING PROGRAM

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

Authority: 42 U.S.C. 7401, 7403, 7410, 7426, 7491, 7601, and 7651, *et seq.*

Subpart EEEEE—CSAPR NO_X Ozone Season Group 2 Trading Program

■ 11. Amend § 97.810 by:

■ a. Revising paragraphs (a)(1)(i) through (iii) and (a)(17)(i) through (iii);

■ b. Adding paragraphs (a)(22)(iv) through (vi);

■ c. Revising paragraphs (b)(1) and (17); and

■ d. Redesignating paragraph (b)(22) as paragraph (b)(22)(i) and adding paragraph (b)(22)(ii).

The revisions and additions read as follows:

§ 97.810 State NO_X Ozone Season Group 2 trading budgets, new unit set-asides, Indian country new unit set-asides, and variability limits.

(a) * * *

(1) * * *

(i) The NO_X Ozone Season Group 2 trading budget for 2017 and thereafter is 13,211 tons.

(ii) The new unit set-aside for 2017 and thereafter is 255 tons.

(iii) The Indian country new unit set-aside for 2017 and thereafter is 13 tons.

* * * * *

(17) * * *

(i) The NO_X Ozone Season Group 2 trading budget for 2017 and thereafter is 11,641 tons.

(ii) The new unit set-aside for 2017 and thereafter is 221 tons.

(iii) The Indian country new unit set-aside for 2017 and thereafter is 12 tons.

* * * * *

(22) * * *

(iv) The NO_X Ozone Season Group 2 trading budget for 2023 and thereafter is 12,884 tons.

(v) The new unit set-aside for 2023 and thereafter is 261 tons.

(vi) [Reserved]

* * * * *

(b) * * *

(1) The variability limit for Alabama for 2017 and thereafter is 2,774 tons.

* * * * *

(17) The variability limit for Oklahoma for 2017 and thereafter is 2,445 tons.

* * * * *

(22) * * *

(ii) The variability limit for West Virginia for 2023 and thereafter is 2,706 tons.

* * * * *

§ 97.821 [Amended]

■ 12. Amend § 97.821 in paragraph (e)(2) by removing ''By September 5, 2023, the Administrator'' and adding in its place ''By September 5, 2023, or, with regard to sources in West Virginia, as soon as practicable on or after September 29, 2023, the Administrator''.

§ 97.824 [Amended]

■ 13. Amend § 97.824 in paragraph (a)(2) by removing the period at the end of the paragraph and adding a semicolon in its place.

§ 97.825 [Amended]

■ 14. Amend § 97.825 in paragraph (a)(2) by removing the period at the end of the paragraph and adding a semicolon in its place.

§ 97.826 [Amended]

■ 15. Amend § 97.826 in paragraph (e)(1) introductory text by removing ''§ 52.38(b)(2)(ii)(A) or (D)'' and adding in its place ''§ 52.38(b)(2)(ii)(A) or (b)(2)(iii)(D)''.

Subpart GGGGG—CSAPR NO_X Ozone Season Group 3 Trading Program

§ 97.1026 [Amended]

■ 16. Amend § 97.1026:

■ a. In paragraph (d)(2)(ii) introductory text, by removing ''§ 52.38(b)(2)(iii)'' and adding in its place ''§ 52.38(b)(2)(iii)(A) through (C)''; and

■ b. In paragraph (e) introductory text, by removing ''by September 18, 2023, the Administrator'' and adding in its place ''by September 18, 2023, or, with regard to sources in West Virginia, as soon as practicable on or after September 29, 2023, the Administrator''.

[FR Doc. 2023–21040 Filed 9–28–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, 68, and 73

[ET Docket No. 21–363; FCC 23–14; FR ID 172974]

Updating References to Standards Related to the Commission's Equipment Authorization Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) updates the rules to incorporate four new and updated standards that are integral to equipment testing. By updating the Commission's rules to keep pace with significant developments in the standards-setting community, the Commission ensures that the equipment authorization program relies on the latest guidance so that the public has confidence that today's advanced devices comply with its technical rules.

DATES: This regulation is effective October 30, 2023. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 30, 2023.

FOR FURTHER INFORMATION CONTACT: Jamie Coleman, Office of Engineering and Technology, (202) 418–2705 or *Jamie.Coleman@FCC.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, in ET Docket No. 21–363; FCC 23–14, adopted on March 10, 2023, and released on March 14, 2023. The full text of this document is available for public inspection and can be downloaded at: *https://docs.fcc.gov/public/attachments/FCC-23-14A1.pdf.* Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *FCC504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Procedural Matters

Final Regulatory Flexibility Analyses. The Regulatory Flexibility Act of 1980 (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared a Final

Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes and/or policy contained in the Report and Order on small entities. As required by the RFA, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (NPRM), 87 FR 151189 (March 17, 2022). The Commission sought written public comment on the proposals in the NPRM, including comments on the IRFA. No comments were filed addressing the IRFA. Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in the document on small entities. The present FRFA conforms to the RFA and can be viewed under Appendix B of the item.

Paperwork Reduction Act. This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4). The Commission has described impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the Final Regulatory Flexibility Analysis (FRFA), and can be viewed under Appendix B of the item at: *https://www.fcc.gov/document/fcc-updates-equipment-authorization-standards.*

Congressional Review Act. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this document to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Synopsis

Background

Section 302 of the Communications Act of 1934, as amended (the Act), authorizes the Commission to make reasonable regulations governing the interference potential of devices that emit RF energy and can cause harmful interference to radio communications. The Commission generally implements this authority by establishing technical rules for RF devices. One of the primary ways the Commission ensures compliance with the technical rules is through the equipment authorization program for RF devices, procedures for which are codified in part 2 of its rules. The Office of Engineering and Technology (OET) administers the day-to-day operation of the equipment authorization program.

Part 2 of the Commission's rules provides two different approval procedures for RF devices subject to equipment authorization—certification and Supplier's Declaration of Conformity (SDoC). While both processes involve laboratory testing to demonstrate compliance with Commission requirements, testing associated with certification must be performed by an FCC-recognized accredited testing laboratory. Additionally, part 68 of the Commission's rules sets forth requirements to ensure that terminal equipment can be connected to the telephone network without harming its functioning and for the compatibility of hearing aids and land-line telephones so as to ensure that, to the fullest extent made possible by technology and medical science, people with hearing loss have equal access to communications services.

Equipment testing is central to the equipment authorization program in ensuring that RF devices comply with Commission rules. Acknowledging the best practices widely followed by industry, the Commission's equipment authorization rules often incorporate by reference various standards established by standards-setting bodies, including, but not limited to, the American National Standards Institute (ANSI), Accredited Standards Committee C63 (ANSC C63); the International Organization for Standardization; and the International Electrotechnical Commission. Use of these standards is intended to ensure the integrity of the measurement data associated with an equipment authorization. Among other things, such standards provide procedures for conducting measurements at testing facilities and specify the conditions expected in the testing environment.

Discussion

Standards bodies periodically update existing standards or adopt new standards to reflect best practices in response to advancements in technologies and measurement capabilities. The Commission initiated this proceeding in response to such developments. Specifically, in the NPRM, the Commission addressed two petitions filed by ANSC C63: one seeking to incorporate by reference into its rules a new standard pertaining to test site validation; and one proposing to incorporate by reference a newer version of a currently referenced standard that addresses a variety of compliance testing requirements. The Commission also proposed to clarify the status of two standards on which OET previously sought comment.

Incorporation by Reference

Incorporation by reference (IBR) is the process that federal agencies use when referring to materials published elsewhere to give those materials the same force and effect of law in the Code of Federal Regulations (CFR) as if the materials' text had actually been published in the **Federal Register**. By using IBR, the Commission is able to give effect to technical instructions, testing methodologies, and other process documents that are developed and owned by standards development organizations. Referencing these documents in the Commission's rules in accordance with requirements established by the Office of the Federal Register substantially reduces the volume of material that the Commission otherwise would have to publish in the **Federal Register** and the CFR. Once the Commission has completed any necessary notice-and-comment rulemaking proceedings and determined based on the record that any standards the Commission adopts is sound and appropriate, the Commission need only update the references to the standards in the Commission's rules.

Availability of Materials

As an initial matter, the Commission addresses a comment regarding the IBR process in general as opposed to the merits of the particular standards under consideration. Specifically, Public Resource Org. Inc., iFixit, Inc., and Make Community, LLC (Joint Commenters) express concerns related to ''the public availability and accessibility of documents that are proposed to be incorporated by reference into law.'' Joint Commenters claim that the materials subject to IBR should be broadly available to members of the public on a free and unrestricted basis (*e.g.,* in a format that can be easily copied without cost), that the standards documents were not made available in this manner during the rulemaking process, and that the Commission's failure to do so was ''illegal and arbitrary.'' Joint Commenters are concerned that the accessibility of the relevant materials is often limited by what it characterizes as onerous conditions put in place by the associated private entities. It asks that

the Commission ''restart'' the rulemaking process with ''everyone having free access and the right to copy'' the standards under consideration.

The Commission recognizes that the benefit of using the IBR process to incorporate standards that are developed and hosted by professional standards development organizations into the rules—that the Commission can ''draw on the expertise and resources of private sector standard developers to serve the public interest''—is typically accompanied with limitations on how those standards are accessed due to the standard developers' intellectual property interests in those materials. For example, the National Archives and Records Administration, Office of the Federal Register (NARA OFR), in its final rule addressing incorporation by reference, concluded that a requirement to make available, for free, all materials incorporated by reference into the CFR would ''compromise the ability of regulators to rely on voluntary consensus standards, possibly requiring them to create their own standards, which is contrary to the [National Technology Transfer and Advancement Act of 1995] and the OMB Circular A–119.'' The Commission therefore disagrees with the sweeping nature of Joint Commenters' claims. The requirements for availability as suggested by Joint Commenters would be inconsistent with established government-wide guidance and practice for IBR and would potentially burden test laboratories, manufacturers, and consumers if the Commission were unable to recognize state-of-the-art technical standards adopted and frequently updated through the consensus-driven standards development process.

The Commission further concludes that the information the Commission provided about the standards it proposed to adopt, including the means by which individuals could inspect copies of those standards, was sufficient to satisfy the requirements for incorporation by reference as set forth in the Administrative Procedure Act (APA) and implemented by NARA OFR in that the Commission made the information reasonably available to the class of persons affected thereby. In the summary of the NPRM published in the **Federal Register**, the Commission provided sources through which interested persons could obtain copies of the relevant standards and stated that a copy of each standard was available for inspection at the FCC's main office. Each of the relevant standards has remained available throughout the rulemaking proceeding in the manner described in the NPRM. In addition, Commission staff further acted consistent with guidance from the Administrative Conference of the United States (ACUS) to ''take steps to promote the availability of incorporated materials within the framework of existing law'' by communicating with the relevant standards bodies to encourage availability of materials in an online read-only format and, prior to publication of the NPRM in the **Federal Register**, confirmed that each standard was available for purchase by any interested party.

In addressing the proposed rulemaking, Joint Commenters specifically address the terms by which interested parties may purchase copies of the standards. As an initial matter, the Commission notes there is nothing unusual about a direct purchase option being available as part of the IBR process. However, the Commission disagrees with the Joint Commenters' assertion that ''[i]n order to comment on [the NPRM], [the Joint Commenters] would have to each expend $589'' by purchasing copies of the standards. Direct purchase was only one of the means of obtaining information about the standards under consideration. In this case, at least two of these standards were available online in a read-only format without cost, abstracts and information related to the standards are widely available without restriction, and the Commission, per its longstanding practice, ensured that the materials were available for in-person inspection. The Commission is not aware of any party that actually desired to inspect the materials but was unable to do so because of difficulties in traveling to the specified inspection site. Moreover, none of the comments filed in the proceeding that were related to the technical merits of the proposed standards incorporations identified any impediments to finding and accessing the standards under consideration. Based on these facts, and the established policy, the Commission concludes that the materials proposed to be incorporated by reference have been made reasonably available to the class of person affected, consistent with 5 U.S.C. 552(a) and the requirements and procedures under 1 CFR part 51. The Commission therefore disagrees with Joint Commenters' assertion that parties could not ''see'' or ''have access to the text of the standards'' such that they could not meaningfully participate in the rulemaking process.

The Commission is also confident that interested parties will have sufficient opportunities to access the standards on an ongoing basis once the Commission has incorporated them into its rules. The FCC will make a copy of the standards available for public inspection upon request, and NARA OFR makes legal record copies of all standards that have been incorporated by reference. In addition to continued opportunities to purchase copies through the standards development organizations and other online sources, the Commission anticipates that all of the standards, once adopted, will be made available to the public through the on-line reading rooms that the standards bodies maintain. For example, ANSI maintains an ''Incorporated by Reference Portal'' at *www.ibr.ansi.org* that it describes as ''a one-stop mechanism for access to standards that have been incorporated by reference in the U.S. Code of Federal Regulations (CFR),'' and which provides access to these documents at no cost in ''read only'' format for online reading. Collectively, these resources are more than sufficient to permit interested parties to accomplish the objectives identified by the Joint Commenters, including use of the standards by people who fix and evaluate equipment and make new things for understanding how the devices work and identifying whether they are working properly. While the Commission recognizes that each of these access mechanisms may have individual limitations (*e.g.,* cost, travel for in-person inspection, limitations on how the materials may be downloaded, shared, or otherwise used) that would not exist if the standards were made available ''on a public website without charge, and without limitation of use'' as the Joint Commenters request, none of these limitations would prevent interested parties from accessing and using the standards the Commission is adopting. For these reasons, the Commission explicitly rejects the Joint Commenters' assertion that the Commission's actions will be inconsistent with established law and policy balancing the public interest in promoting the development of and reliance on voluntary standards against the need for public access to any such standards incorporated by reference by federal agencies.

Accessing Materials

The OFR has regulations concerning incorporation by reference. These regulations require that, for a final rule, agencies must discuss in the preamble to the final rule the way in which materials that the agency incorporates by reference are reasonably available to interested parties, and how interested parties can obtain the materials.

Additionally, the preamble to the final rule must summarize the material.

Sections 2.910 and 2.948 of the rules adopted in the Report and Order incorporate by reference the following standard: ''American National Standard Validation Methods for Radiated Emission Test Sites; 1 GHz to 18 GHz'' (ANSI C63.25.1–2018). The ANSI C63.25.1–2018 standard consolidates guidance from existing standards to provide test site validation procedures from 1 GHz to 18 GHz. Incorporation of this standard will provide an additional option for test site validation of radiated emission measurements from 1 GHz to 18 GHz, while continuing to provide for the validation option currently specified in the Commission's rules. Interested persons may purchase a copy of ANSI C63.25.1 from the sources provided in 47 CFR 2.910. A copy of the standard may also be inspected at the FCC's main office.

Sections 15.31 and 15.38 of the rules adopted in the Report and Order incorporate by reference the following standard: ''American National Standard of Procedures for Compliance Testing of Unlicensed Wireless Devices'' (ANSI C63.10–2020). The ANSI C63.10–2020 standard is an update to a standard previously incorporated by reference within the Commission's rules and it addresses ''the procedures for testing the compliance of a wide variety of unlicensed wireless transmitters.'' Interested persons may purchase a copy of ANSI C63.10–2020 from the sources provided in 47 CFR 2.910. A copy of the standard may also be inspected at the FCC's main office.

Sections 2.910, 2.948, 2.949, 2.962, and 68.162 of the rules adopted in the Report and Order incorporate by reference the following standard: ''General requirements for the competence of testing and calibration laboratories'' (ISO/IEC 17025:2017(E)). The ISO/IEC 17025:2017(E) standard is an update to the standard currently incorporated by reference within the Commission's rules that replaces certain prescriptive requirements with performance-based requirements for test laboratory accreditation. The standard contains the requirements related to test laboratory accreditation, including requirements for processes, procedures, documented information, and organizational responsibilities. The laboratory accreditation bodies assess a variety of laboratory aspects, including the technical competence of staff; the validity and appropriateness of test methods; traceability of measurements and calibration to national standards; suitability, calibration, and maintenance of the testing environment; sampling, handling, and transportation of test items; and quality assurance of test and calibration data. Interested persons may purchase a copy of ISO/IEC 17025:2017(E) from the sources provided in 47 CFR 2.910 and 68.162. A copy of the standard may also be inspected at the FCC's main office.

Sections 2.910 and 2.948 of the rules adopted in the Report and Order incorporate by reference the following standard: ''American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz, Amendment 1: Test Site Validation'' (ANSI C63.4a–2017). The ANSI C63.4a–2017 standard introduces modifications to the normalized site attenuation procedures for validating radiated test sites for use in the 30 MHz to 1 GHz frequency range. Interested persons may purchase a copy of ANSI C63.4a–2017 from the sources provided in 47 CFR 2.910. A copy of the standard may also be inspected at the FCC's main office.

''American National Standard Validation Methods for Radiated Emission Test Sites; 1 GHz to 18 GHz'' (ANSI C63.25.1–2018)

In consideration of an ANSC C63 petition for rulemaking, in the NPRM, the Commission proposed to incorporate by reference the standard titled ''American National Standard Validation Methods for Radiated Emission Test Sites; 1 GHz to 18 GHz'' (ANSI C63.25.1–2018), into the test site validation requirements of § 2.948(d) of the Commission's rules. Under the Commission's current rules, measurement facilities that make radiated emission measurements from 30 MHz to 1 GHz must comply with the site validation requirements in ANSI C63.4–2014 (clause 5.4.4), and, for radiated emission measurements from 1 GHz to 40 GHz, the site validation requirements in ANSI C63.4–2014 (clause 5.5.1 a) 1)) apply. The Commission proposed to incorporate ANSI C63.25.1–2018 in order to provide an additional option for test site validation of radiated emission measurements from 1 GHz to 18 GHz.

As noted in the NPRM, the C63.25.1–2018 standard consolidates guidance from existing standards to provide test site validation procedures from 1 GHz to 18 GHz. For example, the C63.25.1–2018 standard includes a CISPR 16 method known as the site voltage standing wave ratio (SVSWR) approach to validate test sites for frequencies above 1 GHz, which measures responses between antennas while varying their distances. This method is included in the standard currently referenced in the Commission's rules, ANSI C63.4–2014 (clause 5.5.1 a) 1)). Additionally, C63.25.1–2018 introduces the option of using a new effective test validation method called time domain site validation (TDSV), the benefits of which are cited by ANSC C63 in the C63.25.1 Petition. The Commission tentatively concluded that incorporating C63.25.1–2018 in the Commission's rules by reference would have the benefit of providing the availability of TDSV as an additional option, while continuing to allow use of the procedures currently described in § 2.948(d) of the Commission's rules for test site validation of radiated emission measurements from 1 GHz to 18 GHz. While the Commission tentatively concluded that the entire standard should be incorporated by reference, it also asked whether any procedures or techniques included in ANSI C63.25.1–2018 would not be appropriate for demonstrating compliance with the Commission's equipment authorization rules. Finally, because the Commission proposed to incorporate ANSI C63.25.1–2018 as an option to an already existing requirement, it tentatively concluded that there would be no need to designate a transition period.

Several commenters expressed support for adopting ANSI C63.25.1–2018 in full. Information Technology Industry Council, while suggesting that C63.25.1–2018 be applied immediately, also suggests that the Commission continue to accept measurements that reference C63.4–2014 for two years. Cisco Systems Inc. (Cisco) supports adopting the proposed references to ANSI C63.25.1–2018; however, it asks the Commission to make some specific clarifications regarding the application of the standard. Specifically, Cisco encourages the Commission to clarify that site voltage standing wave ratio (SVSWR) and time domain site validation (TDSV) are the only acceptable methods of site verification under ANSI C63.25.1–2018. Additionally, Cisco states that as both the SVSWR and TDSV validation methods require some calibration, ANSI C63.5–2017 does not appear to add any value as a reference. Thus, Cisco suggests that the FCC simply state that all appropriate devices (antennas, positioners, etc.) must be validated in a manner that ensures they satisfy the necessary characteristics defined by each method.

The Commission believes, and the record does not suggest otherwise, that the Commission was correct to tentatively conclude that incorporating ANSI C63.25.1–2018 among the

procedures currently described in § 2.948(d) of the Commission's rules would serve the public interest by providing useful options and potential benefits for test site validation of radiated emission measurements from 1 GHz to 18 GHz. As the Commission noted when discussing the C63.25.1 Petition, while the TDSV and SVSWR methods are similar in that both measure responses between antennas, TDSV does not require varying the distance between antennas, providing a reduction in the sensitivity of test results caused by small test setup changes at higher frequencies where the associated wavelengths are relatively short. This feature and other aspects of the TDSV method introduce process efficiency improvements that could result in less time to perform the validation. Accordingly, the Commission is incorporating the complete ANSI C63.25.1–2018 standard into § 2.948(d) of the rules. The Commission clarifies that incorporating ANSI C63.25.1–2018 into § 2.948(d), as amended herein, provides two options of test site validation procedures for radiated emission measurements from 1 GHz to 18 GHz: SVWSR and TDSV. The Commission is not adopting Cisco's suggestion that the Commission remove references to ANSI C63.5–2017 from the version of the C63.25.1–2018 standard incorporated into the Commission's rules. References to the use of ANSI C63.5–2017 for the calibration of measurement and reference antennas are prevalent among the ANSI standards already incorporated by reference in the Commission's rules. Finally, the Commission sees no need to adopt a transition period for the use of ANSI C63.25.1–2018 as it includes the test site validation option provided by the previous ANSI C63.4–2014.

''American National Standard of Procedures for Compliance Testing of Unlicensed Wireless Devices'' (ANSI C63.10–2020)

In the NPRM, in response to a petition filed by ANSC C63, the Commission proposed to incorporate by reference ANSI C63.10–2020, ''American National Standard of Procedures for Compliance Testing of Unlicensed Wireless Devices,'' into the Commission's rules to replace existing references to ANSI C63.10–2013. The ANSI C63.10–2020 standard was approved by ANSI on September 10, 2020, and updates the measurement procedures set forth in ANSI C63.10–2013, which is currently referenced in §§ 2.910, 2.950, 15.31, and 15.38 of the Commission's rules. The standard addresses ''the procedures for testing the compliance of a wide variety of unlicensed wireless transmitters . . . including, but not limited to, remote control and security unlicensed wireless devices, frequency hopping and direct sequence spread spectrum devices, anti-pilferage devices, cordless telephones, medical unlicensed wireless devices, Unlicensed National Information Infrastructure (U–NII) devices, intrusion detectors, unlicensed wireless devices operating on frequencies below 30 MHz, automatic vehicle identification systems, and other unlicensed wireless devices authorized by a radio regulatory authority.''

The Commission tentatively concluded that it would be appropriate to simply replace the existing standard references with references to the new standard, subject to a two-year or other appropriate transition period. The Commission asked whether any procedures or techniques included in the standard would not be appropriate for use in the context of demonstrating compliance with the Commission's equipment authorization rules. Similarly, the Commission also asked which, if any, of the Commission rules that do not currently reference ANSI C63.10–2013 should reference ANSI C63.10–2020. Finally, the Commission asked whether a transition period during which either version of ANSI C63.10 could be used would be appropriate.

Several commentors support adopting the updated standard. National Technical Systems states that ''it is assumed that if C63.4a is not adopted then adoption of ANSI C63.10–2020 would exclude the normative reference to ANSI C63.4a.'' ITI supports the adoption of the standard in full, while suggesting that C63.10–2020 be applied immediately while accepting reference to C63.10–2013 for up to two years in order to ''allow test labs and manufacturers adequate time to procure and complete necessary actions.'' It also notes that products that were assessed and released in accordance with the previous standard should not be required to be assessed to C63.10–2020 unless the product changes or needs an updated certification. Cisco, A2LA, and ANSI C63 support adopting the new standard in full and offer no further comment.

The new edition of ANSI C63.10–2020 not only provides updates to the methods in the standard but also adds new methods. The Commission finds that it is necessary at this time to update §§ 2.910, 2.950, 15.31(a)(3), and 15.38(g)(3) to incorporate by reference ANSI C63.10–2020. This update to the Commission's rules will address advancements in compliance testing methods that have accompanied the growth of wireless devices and ensure the continued integrity of the relevant measurement data. With regard to the normative reference to ANSI C63.4–2017, the Commission does not find it necessary to exclude it. The Commission notes that C63.10–2020 refers to ANSI C63.4–2017 for 0.3 GHz to 1 GHz (NSA) test site validation procedures in lieu of the NSA validation methods contained in ANSI C63.4–2014. The C63.10–2020 standard includes ANSI C63.4–2017 in its list of normative references, in Clause 5.2 when specifying an appropriate radiated test site for performing the compliance measurements, and in Clause 6.5.2 when specifying permissible distances between antennas when performing radiated tests. The C63.10–2020 standard is a North American standard rather than a U.S. standard and thus accommodates both Canadian and U.S. regulations. Canada has already recognized ANSI C63.4–2017 in its regulations but, prior to this proceeding, the U.S. has not. The reference to ANSI C63.4–2017 in the standard contains a footnote reference to 47 CFR 15.31 in recognition that ANSI C63.4–2017 may not be adopted by the U.S. regulators. To accommodate the transition to this new standard, and as proposed in the NPRM and supported by ITI, the Commission will permit the use of either ANSI C63.10–2013 or ANSI C63.10–2020 for a period of two years following the effective date of the rules adopted in this Order. The record supports this time period as sufficiently reasonable for the affected entities to procure the necessary equipment and implement the required changes.

Other Standards

In addition to addressing new specific incorporation by reference proposals, the Commission in the NPRM made tentative proposals and sought to refresh the record obtained in response to the Standards Update Notice that was previously issued by OET. Further, the Commission made proposals intended to ''clean up'' the rules by addressing several obsolete references and asked whether any additional similar rules changes would be appropriate.

''General Requirements for the Competence of Testing and Calibration Laboratories'' (ISO/IEC 17025:2017(E))

Measurement data intended to demonstrate compliance with certain Commission requirements must be obtained from an accredited testing laboratory. Currently, §§ 2.910, 2.948, 2.949, 2.962, and 68.162 incorporate by reference ISO/IEC 17025:2005(E) for the

requirements related to test laboratory accreditation. In November 2017, ISO/IEC published ISO/IEC 17025:2017(E)—a new version of the test laboratory accreditation standard currently referenced in the Commission's rules. In the Standards Update Notice, OET proposed to update the Commission's rules by replacing references to ISO/IEC 17025:2005(E) with references to ISO/IEC 17025:2017(E).

In the NPRM, the Commission proposed to incorporate by reference into its rules ISO/IEC 17025:2017(E) in its entirety, including Clause 8.1—Option A and Option B. Options A and B were specifically addressed in light of comments made in response to the Standards Update Notice. The Commission tentatively concluded that the flexibility of having both options merits that both options should be included when incorporating ISO/IEC 17025:2017(E) into the Commission's rules. Additionally, in the NPRM, the Commission discussed issues related to the passage of time since the release of the Standards Update Notice, and, noting the two year re-accreditation process, it tentatively proposed a two-year transition to the new standard instead of the originally proposed three-year period.

A2LA supports the updated standard and claims that it ''provides a greater emphasis on impartiality, transparency, and the complaint processes;'' takes a process approach and is outcome-focused;'' ''is less prescriptive and less procedure-burdened;'' and ''provides laboratories with greater flexibility as the standard is now underpinned with a risk-based approach to the processes.'' A2LA began transitioning its organization to the new standard in November 2017 in order to meet the International Laboratory Accreditation Cooperation mandate requiring completion of the transition by June 2021. ITI, ANSC C63, and Cisco all support adopting the standard and using Options A and B for lab accreditation under ISO/IEC 17025:2017(E). Additionally, Cisco welcomes any transition period up to, and including, the two-year period proposed by the Commission in the NPRM.

No party opposed the Commission's proposal, and for the reasons stated in the NPRM and as supported by the record, the Commission continues to believe that adoption of the updated standard is in the public interest, and will provide greater transparency, procedural efficiency, and flexibility. The Commission therefore incorporates by reference ISO/IEC 17025:2017(E) into §§ 2.910, 2.948, 2.949, 2.950, 2.962, and 68.162 of the Commission's rules. To accommodate the transition to this new standard, as proposed in the NPRM, the Commission will permit the use of either ISO/IEC 17025:2005(E) or ISO/IEC 17025:2017(E) for a period of two years following the effective date of the rules adopted in the Report and Order. While both ISO/IEC 17025:2005(E) and ISO/IEC 17025:2017(E) were considered valid during the transition period in effect at the time of the Standards Update PN, accreditations to ISO/IEC 17025:2005(E) became invalid after June 1, 2021. In the Standards Update PN, OET proposed to adopt a three-year transition period for use of the proposed updated standard. In consideration of the time that has passed since publication of the Standards Update PN, combined with the facts that the Commission's rules require test laboratories to complete the accreditation process every two years and that the prior standard has since become invalid within the standards body, the Commission provides a two-year transition period for compliance with ISO/IEC 17025:2017(E).

''American National Standard for Methods of Measurement of Radio-Noise Emissions From Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz, Amendment 1: Test Site Validation'' (ANSI C63.4a–2017)

Sections 2.910, 2.948, 2.950, 15.31, 15.35, and 15.38 of the Commission's rules reference ANSI 63.4–2014, ''American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz,'' as an electromagnetic compatibility (EMC) measurement standard for unintentional radiators. In late 2017, ANSC C63 published ANSI C63.4a–2017, ''American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz, Amendment 1: Test Site Validation'' (ANSI C63.4a–2017). In the Standards Update Notice, OET sought comment on incorporating by reference ANSI C63.4a–2017 in the appropriate rules. Although some commenters supported incorporation of the amended standard, several negative responses were received in this regard. In the NPRM, the Commission considered the comments filed pursuant to the Standards Update Notice and tentatively concluded that ANSI C63.4–2014 continues to sufficiently address current needs and that incorporation by reference of ANSI C63.4a–2017 into the Commission's rules was not warranted at that time.

Many commenters in this proceeding support the tentative conclusion made by the Commission in the NPRM that ANSI C63.4–2014 continues to sufficiently address current needs and that incorporation by reference of ANSI C63.4a–2017 into the Commission's rules is not warranted at this time. In its reply comments, ANSC C63 supports that tentative conclusion but notes that a reference to ANSI C63.4a–2017 in the Commission's rules should be optional and not a requirement because it would ''allow labs to meet both Canadian and U.S. requirements with a single site validation test.''

After further consideration of the information on the record, including the comments from ET Docket No. 19–48, the Commission affirms its tentative determination that ANSI C63.4–2014 continues to sufficiently address current needs and continues to retain the incorporation by reference into the Commission's rules of ANSI C63.4–2014. However, the Commission recognizes that ANSI C63.4a–2017 introduced modifications to the normalized site attenuation procedures for validating radiated test sites for use in the 30 MHz to 1 GHz frequency range. Some of these modifications involve a new acceptable test distance (five meters) and an expanded test volume to accommodate devices with heights that exceed two meters. As noted in the NPRM, several parties objected to making this a mandatory requirement because of cost concerns over the potential need to redesign and retrofit existing test facilities. However, the Commission also recognizes that in some cases these modifications may be necessary to accommodate testing of larger devices. In addition, Innovation, Science and Economic Development Canada (ISED)—a department of the Government of Canada—has adopted the amended standard. The Commission also affirms its Office of Engineering and Technology's acceptance of the use of this standard as an alternative pursuant to KDB 414788 D01 Radiated Test Site v01r01. Therefore, to accommodate testing of larger devices (greater than two meters in height) and to allow for harmonization with ISED requirements, the Commission adopts ANSI C63.4–2017 through incorporation by reference. By retaining the existing standards and also adopting the modified standard, the Commission provides two options for an electromagnetic compatibility (EMC) measurement standard for unintentional radiators to accommodate the improvements where they are most

needed and retains the status quo for testing that would not benefit from the updates.

Additional Updates

In the NPRM, the Commission noted that several part 2 rules incorporate references that have become outdated as a result of prior updates to standards that were phased in over specific transition periods—once the newer standards became the only valid procedure for compliance with the Commission's rules, the prior references became irrelevant. Specifically, the Commission proposed to delete from § 2.910 of the Commission's rules references to: ISO/IEC Guide 58:1993(E), ''Calibration and testing laboratory accreditation systems—General requirements for operation and recognition,'' First Edition 1993; ISO/IEC Guide 61:1996(E), ''General requirements for assessment and accreditation of certification/registration bodies,'' First Edition 1996; and ISO/IEC Guide 65:1996(E), ''General requirements for bodies operating product certification systems.'' Additionally, the Commission proposed to delete the related transition periods provided in § 2.950 and make any necessary related administrative rule changes. The Commission also asked whether there were additional conforming or administrative updates to its rules and if any other rule modifications were needed, including updating other standards currently referenced in the rules or incorporating by reference additional standards not currently referenced in the rules.

In its comments, ITI notes that §§ 15.38(b) and 15.109(g) still reference CISPR 22 and requested that these references be updated to the latest edition of CISPR 32. ITI also recommends that a specific statement permitting grandfathering would benefit the industry, avoid confusion, and facilitate compliance. Cisco supports these additional updates. Additionally, ANSC C63 also points out that ''the proposed amendment to Rule 2.910 references CISPR 16–1–4:2010–04, however, that version of the standard is out of date'' and the rule ''should reference the current version of the standard which is CISPR 16–1–4 2019+AMD:2020.''

Absent any opposition in the record, the Commission adopts the proposals to delete references to: ISO/IEC Guide 58:1993(E), First Edition 1993; ISO/IEC Guide 61:1996(E), First Edition 1996; and ISO/IEC Guide 65:1996(E) from § 2.910 of the Commission's rules. Additionally, the Commission adopts the proposal to delete the related transition periods provided in § 2.950. The commenter recommendations to update additional references were not contemplated in the Commission's proposal, and it therefore takes no action here.

Ordering Clauses

Accordingly, *it is ordered*, pursuant to the authority found in sections 4(i), 301, 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302a, 303, that this Report and Order *is hereby adopted.*

It is further ordered that the amendments of parts 2, 15, 68, and 73 of the Commission's rules as set forth in Appendix A *are adopted*, effective 30 days after publication in the **Federal Register**.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

It is further ordered that the Office of the Managing Director, Performance Evaluation and Records Management, *shall send* a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Parts 2, 15, and 68

Communications equipment, Incorporation by reference.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2, 15, 68, and 73 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Revise § 2.910 to read as follows:

§ 2.910 Incorporation by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Communications Commission (FCC) must publish a document in the **Federal Register** and the material must be available to the public. All approved incorporation by reference (IBR) material is available for inspection at the FCC and at the National Archives and Records Administration (NARA). Contact the FCC at the address indicated in 47 CFR 0.401(a), phone: (202) 418–0270. For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations.html* or email *fr.inspection@nara.gov.* The material may be obtained from the following source(s):

(a) International Electrotechnical Commission (IEC), IEC Central Office, 3, rue de Varembe, CH–1211 Geneva 20, Switzerland; email: *inmail@iec.ch;* website: *www.iec.ch.*

(1) CISPR 16–1–4:2010–04, *Specification for radio disturbance and immunity measuring apparatus and methods—Part 1–4: Radio disturbance and immunity measuring apparatus—Antennas and test sites for radiated disturbance measurements,* Edition 3.0, 2010–04; IBR approved for § 2.948(d).

(2) [Reserved]

(b) Institute of Electrical and Electronic Engineers (IEEE), 3916 Ranchero Drive, Ann Arbor, MI 48108; phone: (800) 678–4333; email: *stds-info@ieee.org;* website: *www.ieee.org/.*

(1) ANSI C63.4–2014, *American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz,* ANSI-approved June 13, 2014, Sections 5.4.4 (''Radiated emission test facilities—Site validation'') through 5.5 (''Radiated emission test facilities for frequencies above 1 GHz (1 GHz to 40 GHz)''), copyright 2014; IBR approved for § 2.948(d).

(2) ANSI C63.4a–2017, *American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz, Amendment 1: Test Site Validation,* ANSI-approved September 15, 2017; IBR approved for § 2.948(d).

(3) ANSI C63.25.1–2018, *American National Standard Validation Methods for Radiated Emission Test Sites, 1 GHz to 18 GHz,* ANSI-approved December 17, 2018; IBR approved for § 2.948(d).

(4) ANSI C63.26–2015, *American National Standard of Procedures for Compliance Testing of Transmitters Used in Licensed Radio Services,* ANSI-

approved December 11, 2015; IBR approved for § 2.1041(b).

(c) International Organization for Standardization (ISO), Ch. de Blandonnet 8, CP 401, CH–1214 Vernier, Geneva, Switzerland; phone: + 41 22 749 01 11; fax: + 41 22 749 09 47; email: *central@iso.org;* website: *www.iso.org.*

(1) ISO/IEC 17011:2004(E), *Conformity assessment—General requirements for accreditation bodies accrediting conformity assessment bodies,* First Edition, 2004–09–01; IBR approved for §§ 2.948(e); 2.949(b); 2.960(c).

(2) ISO/IEC 17025:2005(E), *General requirements for the competence of testing and calibration laboratories,* Second Edition, 2005–05–15; IBR approved for §§ 2.948(e); 2.949(b); 2.950(a); 2.962(c) and (d).

(3) ISO/IEC 17025:2017(E), *General requirements for the competence of testing and calibration laboratories,* Third Edition, November 2017; IBR approved for §§ 2.948(e); 2.949(b); 2.950(a); 2.962(c) and (d).

(4) ISO/IEC 17065:2012(E), *Conformity assessment—Requirements for bodies certifying products, processes and services,* First Edition, 2012–09–15; IBR approved for §§ 2.960(b); 2.962(b), (c), (d), (f), and (g).

Note 1 to § 2.910: The standards listed in paragraphs (b) and (c) of this section are also available from the American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036; phone (212) 642–4980; email *info@ansi.org;* website: *https://webstore.ansi.org/.*

■ 3. Amend § 2.948 by revising paragraph (d) to read as follows:

§ 2.948 Measurement facilities.

* * * * *

(d) When the measurement method used requires the testing of radiated emissions on a validated test site, the site attenuation must comply with either: the requirements of ANSI C63.4a–2017 (incorporated by reference, see § 2.910) or the requirements of sections 5.4.4 through 5.5 of ANSI C63.4–2014 (incorporated by reference, see § 2.910).

(1) Measurement facilities used to make radiated emission measurements from 30 MHz to 1 GHz must comply with the site validation requirements in either ANSI C63.4a–2017 or ANSI C63.4–2014 (clause 5.4.4);

(2) Measurement facilities used to make radiated emission measurements from 1 GHz to 18 GHz must comply with the site validation requirement of ANSI C63.25.1–2018 (incorporated by reference, see § 2.910);

(3) Measurement facilities used to make radiated emission measurements from 18 GHz to 40 GHz must comply with the site validation requirement of ANSI C63.4–2014 (clause 5.5.1 a) 1)), such that the site validation criteria called out in CISPR 16–1–4:2010–04 (incorporated by reference, see § 2.910) is met.

(4) Test site revalidation must occur on an interval not to exceed three years.

* * * * *

■ 4. Revise § 2.950 to read as follows:

§ 2.950 Transition periods.

(a) Prior to October 30, 2025, a prospective or accredited testing laboratory or telecommunication certification body must be capable of meeting the requirements and conditions of ISO/IEC 17025:2005(E) (incorporated by reference, see § 2.910) or ISO/IEC 17025:2017(E) (incorporated by reference, see § 2.910). On or after October 30, 2025, a prospective or accredited testing laboratory or telecommunication certification body must be capable of meeting the requirements and conditions of ISO/IEC 17025:2017(E) (incorporated by reference, see § 2.910).

(b) All radio frequency devices that were authorized under the verification or Declaration of Conformity procedures prior to November 2, 2017, must continue to meet all requirements associated with the applicable procedure that were in effect immediately prior to November 2, 2017. If any changes are made to such devices after November 2, 2018, the requirements associated with the Supplier's Declaration of Conformity apply.

PART 15—RADIO FREQUENCY DEVICES

■ 5. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

■ 6. Amend § 15.31 by revising paragraph (a)(3) to read as follows:

§ 15.31 Measurement standards.

(a) * * *

(3) Other intentional radiators must be measured for compliance using the following procedure: ANSI C63.10–2020 (incorporated by reference, see § 15.38).

* * * * *

■ 7. Amend § 15.37 by adding paragraph (s) to read as follows

§ 15.37 Transition provisions for compliance with this part.

* * * * *

(s) Prior to October 30, 2025, measurements for intentional radiators subject to § 15.31(a)(3) must be made using the procedures in ANSI C63.10–2013 or ANSI C63.10–2020 (incorporated by reference, see § 15.38). On or after October 30, 2025, measurements for intentional radiators subject to § 15.31(a)(3) must be made using the procedures in ANSI C63.10–2020 (incorporated by reference, see § 15.38).

■ 8. Revise § 15.38 to read as follows:

§ 15.38 Incorporation by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Communications Commission (FCC) must publish a document in the **Federal Register** and the material must be available to the public. All approved incorporation by reference (IBR) material is available for inspection at the FCC and at the National Archives and Records Administration (NARA). Contact the FCC at the address indicated in 47 CFR 0.401(a), phone: (202) 418–0270. For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations.html* or email *fr.inspection@nara.gov.* The material may be obtained from the following source(s):

(a) American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036; phone: (212) 642–4980; email *info@ansi.org;* website: *https://webstore.ansi.org/.*

(1) ANSI C63.17–2013, *American National Standard for Methods of Measurement of the Electromagnetic and Operational Compatibility of Unlicensed Personal Communications Services (UPCS) Devices,* approved August 12, 2013; IBR approved for § 15.31.

(2) Third Edition of the International Special Committee on Radio Interference (CISPR), Pub. 22, *Information Technology Equipment-Radio Disturbance Characteristics-Limits and Methods of Measurement,* 1997; IBR approved for § 15.09.

(b) Cable Television Laboratories, Inc., 858 Coal Creek Circle, Louisville, Colorado 80027; phone: (303) 661–9100; website: *www.cablelabs.com/.*

(1) M–UDCP–PICS–I04–080225, *Uni-Directional Cable Product Supporting M–Card: Multiple Profiles; Conformance Checklist: PICS,* February 25, 2008; IBR approved for § 15.123(c).

(2) TP–ATP–M–UDCP–I05–20080304, *Uni-Directional Digital Cable Products Supporting M–Card; M–UDCP Device Acceptance Test Plan,* March 4, 2008; IBR approved for § 15.123(c).

(c) Consumer Technology Association (formerly Consumer Electronics Association), 1919 S. Eads St., Arlington, VA 22202; phone: (703) 907–7634; email: *CTA@CTA.tech*; website: *www.cta.tech/*.

(1) CEA–542–B, *CEA Standard: Cable Television Channel Identification Plan,* July 2003; IBR approved for § 15.118.

(2) CEA–766–A, *U.S. and Canadian Region Rating Tables (RRT) and Content Advisory Descriptors for Transport of Content Advisory Information using ATSC A/65–A Program and System Information Protocol (PSIP),* April 2001; IBR approved for § 15.120.

(3) EIA–608, *Recommended Practice for Line 21 Data Service,* 1994; IBR approved for § 15.120.

(4) EIA–744, *Transport of Content Advisory Information Using Extended Data Service (XDS),* 1997; IBR approved for § 15.120.

(5) Uni-Dir-PICS–I01–030903, *Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma,* September 3, 2003; IBR approved for § 15.123(c).

(6) Uni-Dir-ATP–I02–040225, *Uni-Directional Receiving Device, Acceptance Test Plan,* February 25, 2004; IBR approved for § 15.123(c).

(d) European Telecommunications Standards Institute, 650 Route des Lucioles, F–06921 Sophia Antipolis Cedex, France; website: *www.etsi.org/*.

(1) ETSI EN 300 422–1 V1.4.2 (2011–08), *Electromagnetic compatibility and Radio spectrum Matters (ERM); Wireless microphones in the 25 MHz to 3 GHz frequency range; Part 1: Technical characteristics and methods of measurement,* Copyright 2011; IBR approved for § 15.236(g).

(2) [Reserved]

(e) Institute of Electrical and Electronic Engineers (IEEE), 3916 Ranchero Drive, Ann Arbor, MI 48108; phone: (800) 678–4333; email: *stds-info@ieee.org;* website: *www.ieee.org/*.

(1) ANSI C63.4–2014: *American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz,* ANSI approved June 13, 2014; IBR approved for § 15.35(a).

(2) ANSI C63.4–2014, *American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz,* ANSI approved June 13, 2014 (excluding clauses 4.5.3, 4.6, 6.2.13, 8.2.2, 9, and 13); IBR approved for § 15.31(a).

(3) ANSI C63.10–2013, *American National Standard of Procedures for Compliance Testing of Unlicensed Wireless Devices,* ANSI approved June 27, 2013; IBR approved for §§ 15.31(a); 15.37(s).

(4) ANSI C63.10–2020, *American National Standard of Procedures for Compliance Testing of Unlicensed Wireless Devices,* ANSI-approved September 10, 2020; IBR approved for §§ 15.31(a); 15.37(s).

(f) Society of Cable Telecommunications Engineers (SCTE), 140 Philips Rd., Exton, PA 19341; phone: (610) 363–6888; email: *info@scte.org;* website: *www.scte.org.*

(1) SCTE 28 2003 (formerly DVS 295): ''Host-POD Interface Standard,'' 2003; IBR approved for § 15.123.

(2) SCTE 40 2003 (formerly DVS 313): ''Digital Cable Network Interface Standard,'' 2003; IBR approved for § 15.123.

(3) SCTE 41 2003 (formerly DVS 301): ''POD Copy Protection System,'' 2003; IBR approved for § 15.123.

(4) ANSI/SCTE 54 2003 (formerly DVS 241): ''Digital Video Service Multiplex and Transport System Standard for Cable Television,'' 2003; IBR approved for § 15.123.

(5) ANSI/SCTE 65 2002 (formerly DVS 234): ''Service Information Delivered Out-of-Band for Digital Cable Television,'' 2002; IBR approved for § 15.123.

Note 1 to § 15.38: The standards listed in paragraphs (c) and (f) of this section are available from Accuris (formerly Global Engineering), 15 Inverness Way East, Englewood, CO 80112; phone: (800) 854–7179; website: *https://global.ihs.com.*

Note 2 to § 15.38: The standards listed in paragraphs (e) and (f) of this section are available from ANSI (see paragraph (a) of this section for contact information).

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

■ 9. The authority citation for part 68 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 610.

■ 10. Amend § 68.162 by:

■ a. Revising paragraphs (d)(1) and (i)(1); and

■ b. Adding note 1 to paragraph (i).

The revisions and addition read as follows:

§ 68.162 Requirements for Telecommunication Certification Bodies.

* * * * *

(d) * * *

(1) In accordance with the provisions of ISO/IEC 17065 the evaluation of a product, or a portion thereof, may be performed by bodies that meet the applicable requirements of ISO/IEC 17025 and ISO/IEC 17065, in accordance with the applicable provisions of ISO/IEC 17065, for external resources (outsourcing) and other relevant standards. Evaluation is the selection of applicable requirements and the determination that those requirements are met. Evaluation may be performed by using internal TCB resources or external (outsourced) resources.

* * * * *

(i) * * *

(1) International Organization for Standardization (ISO), Ch. de Blandonnet 8, CP 401, CH–1214 Vernier, Geneva, Switzerland; phone: + 41 22 749 01 11; fax: + 41 22 749 09 47; email: *central@iso.org;* website: *www.iso.org.*

(i) ISO/IEC 17025:2017(E), *General requirements for the competence of testing and calibration laboratories,* Third Edition, November 2017.

(ii) ISO/IEC 17065:2012(E), *Conformity assessment—Requirements for bodies certifying products, processes and services,* First Edition, 2012–09–15.

(2) [Reserved]

Note 1 to paragraph (i): The standards listed in paragraphs (i) of this section are also available from the American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036; phone (212) 642–4980; email *info@ansi.org;* website: *https://webstore.ansi.org/.*

PART 73—RADIO BROADCAST SERVICES

■ 11. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 12. Amend § 73.1660 by revising Note 1 to paragraph (a)(1) to read as follows:

§ 73.1660 Acceptability of broadcast transmitters.

* * * * *

Note 1 to paragraph (a)(1): The verification procedure has been replaced by Supplier's Declaration of Conformity. AM, FM, and TV transmitters previously authorized under subpart J of part 2 of this chapter may remain in use. See § 2.950 of this chapter.

* * * * *

[FR Doc. 2023–20711 Filed 9–28–23; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register

Vol. 88, No. 188

Friday, September 29, 2023

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

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2429

Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Labor Relations Authority (FLRA) is proposing to amend its regulations to specify that, if parties wish to file documents with the FLRA's Office of Case Intake and Publication (CIP) in person, then they must schedule an appointment at least one business day in advance. The proposed amendments also specify that electronically filed (eFiled) documents must be filed by ''11:59 p.m.,'' rather than ''midnight,'' on the due date, and make other minor technical and formatting changes.

DATES: Written comments must be received on or before October 30, 2023.

ADDRESSES: You may send comments, which must include the caption ''Miscellaneous and General Requirements,'' by one of the following methods:

- *Email: FedRegComments@flra.gov.* Include ''Miscellaneous and General Requirements'' in the subject line of the message.
- *Mail:* Erica Balkum, Chief, Office of Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 200, 1400 K Street NW, Washington, DC 20424–0001.

Instructions: Do not mail written comments if they have been submitted via email. Interested persons who mail written comments must submit an original and 4 copies of each written comment, with any enclosures, on 8½ × 11 inch paper. Do not deliver comments by hand.

FOR FURTHER INFORMATION CONTACT: Erica Balkum, Chief, Office of Case Intake and Publication at *ebalkum@flra.gov* or at: (771) 444–5805.

SUPPLEMENTARY INFORMATION: Currently, 5 CFR 2429.24(a) states that—except for documents that are filed electronically through the FLRA's electronic-filing (eFiling) system—parties that file documents with the FLRA's three-Member, decisional component (the Authority) must file those documents with CIP between 9 a.m. and 5 p.m. E.T., Monday through Friday, except federal holidays. 5 CFR 2429.24(a). That regulation also provides that, if parties file those documents by hand delivery, then they must file them no later than 5 p.m. E.T. if the parties want the Authority to accept those documents for filing on that day.

Even before the Coronavirus-19 pandemic, parties rarely filed documents with CIP in person, and then in-person filing was suspended during the pandemic. Since the FLRA reinstated in-person filing effective May 30, 2023, no parties have filed documents with CIP in person.

Further, parties have multiple other methods for filing documents with CIP: most may be eFiled, *see* 5 CFR 2429.24(f) (listing types of documents that may be filed by eFiling); all may be filed by commercial delivery, first-class mail, or certified mail, *see* 5 CFR 2429.24(e); and some may be filed by facsimile transmission (fax), *see* 5 CFR 2429.24(g) (listing types of documents that may be filed by fax). All of those filing methods actually provide more flexibility than in-person filing, because they do not restrict parties to filing their documents during a particular window of time during the day. *See* 5 CFR 2429.24(a) (under current wording, eFiled documents must be filed by midnight); 5 CFR 2429.21(b)(1)(i) (documents filed by first-class mail are considered filed on the date of postmark, if a postmark is legible, or presumed filed five days before the date the Authority receives them, if the postmark is illegible); 5 CFR 2429.21(b)(1)(ii) (documents filed by fax are considered filed on the date of transmission if that date is clear on the fax, or otherwise considered filed on the date on which the Authority receives the fax); 5 CFR 2429.21(b)(1)(iv) (documents filed by a commercial-delivery service that provides a record showing the date of deposit are considered filed on the date of deposit with the commercial-delivery service).

For these reasons, it is unclear that there is any need for CIP to be open to the public for in-person filing on an inflexible schedule of 8 hours a day, 5 days a week.

Additionally, as the FLRA continues to move towards fully electronic case files, it wishes to strongly encourage parties to file any permissible documents through the eFiling system. To the extent that moving to an ''appointment-only'' in-person filing system has any effect at all on parties' filing practices, it should promote eFiling. Further, it would assist CIP—which has decreased in size, over the years, to only four full-time-equivalent employees—in more easily managing staff-coverage issues, especially if budget constraints or other considerations prevent it from filling vacancies as they arise.

Given these considerations, the Authority is proposing to revise 5 CFR 2429.24(a) to eliminate the references to parties being: (1) able to file documents with CIP between 9 a.m. and 5 p.m. E.T., Monday through Friday (except federal holidays), and (2) required to file any hand-delivered documents by 5 p.m. E.T. Instead, the proposed revisions would specify that: (1) to file documents with CIP by personal delivery, parties must schedule an appointment at least one business day in advance by calling CIP; and (2) personal delivery will be accepted by appointment Monday through Friday (except federal holidays).

In addition, the proposed revisions would: (1) update CIP's phone number to (771) 444–5805; (2) delete the period after ''NW'' in CIP's mailing address; (3) change the term ''hand delivery'' to ''personal delivery,'' consistent with other Authority regulations, *see* 5 CFR 2429.21(b)(1)(iii) (discussing how the Authority determines the due dates for ''[d]ocuments filed with the FLRA by personal delivery''); (4) change the eFiling deadline from ''midnight E.T.'' on the due date to ''11:59 p.m.'' on the due date, because midnight technically starts a new day; and (5) correct a typographical error in the second-to-last sentence of the regulation, changing ''federal legal documents'' to ''federal legal holidays.''

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the FLRA has

determined that this proposed rule would not have a significant impact on a substantial number of small entities, because this proposed rule would apply only to Federal agencies, Federal employees, and labor organizations representing those employees.

Executive Order 12866, Regulatory Review

The FLRA is an independent regulatory agency and thus is not subject to the requirements of E.O. 12866 (58 FR 51735, Sept. 30, 1993).

Executive Order 13132, Federalism

The FLRA is an independent regulatory agency and thus is not subject to the requirements of E.O. 13132 (64 FR 43255, Aug. 4, 1999).

Unfunded Mandates Reform Act of 1995

This proposed rule would not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This proposed rule would not result in an annual effect on the economy of $100,000,000 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.

Paperwork Reduction Act of 1995

The proposed rule contains no additional information collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 5 CFR Part 2429

Administrative practice and procedure, Government employees, Labor management relations.

For the reasons stated in the preamble, the FLRA proposes to amend 5 CFR part 2429 as follows:

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

■ 1. The authority citation for part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134; § 2429.18 also issued under 28 U.S.C. 2112(a).

■ 2. Amend § 2429.24 by revising paragraph (a) to read as follows:

§ 2429.24 Place and method of filing; acknowledgment.

(a) Except for documents that are filed electronically through use of the eFiling system on the FLRA's website at *www.flra.gov,* anyone who files a document with the Authority (as distinguished from the General Counsel, a Regional Director, or an Administrative Law Judge) must file that document with the Chief, Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 200, 1400 K Street NW, Washington, DC 20424–0001 (telephone: (771) 444–5805). To file documents by personal delivery, you must schedule an appointment at least one business day in advance by calling the telephone number in the previous sentence. Personal delivery is accepted by appointment Monday through Friday (except federal holidays). If you file documents electronically through use of the FLRA's eFiling system, then you may file those documents on any calendar day—including Saturdays, Sundays, and federal legal holidays—and the Authority will consider those documents filed on a particular day if you file them no later than 11:59 p.m. on that day. Note, however, that although you may eFile documents on Saturdays, Sundays, and federal legal holidays, you are not required to do so. Also note that you may *not* file documents with the Authority by electronic mail (''email'').

* * * * *

Approved: September 26, 2023.

Rebecca J. Osborne,

Director of Legislative Affairs and Program Planning, Federal Labor Relations Authority.

[FR Doc. 2023–21447 Filed 9–28–23; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1890; Project Identifier MCAI–2023–00283–T]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Bombardier, Inc., Model BD–100–1A10 airplanes. This proposed AD was prompted by reports from the supplier that some overheat detection sensing elements of the bleed air leak detection system were manufactured with insufficient salt fill, which can result in an inability to detect hot bleed air leaks. This proposed AD would require revising the existing airplane flight manual (AFM) to include procedures to prevent takeoff with an active bleed air leak annunciated while on the ground. This proposed AD would also require testing the overheat detection sensing elements, marking each serviceable sensing element with a witness mark, and replacing each nonserviceable part with a serviceable part. This proposed AD would also prohibit the installation of affected parts. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 13, 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–2023–1890; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket

contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

• For Bombardier service information identified in this NPRM, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email: *ac.yul@aero.bombardier.com;* website: *bombardier.com.*

• For Liebherr-Aerospace Toulouse SAS service information identified in this NPRM, contact Liebherr-Aerospace Toulouse SAS, 408, Avenue des Etats-Unis—B.P. 52010, 31016 Toulouse Cedex, France; telephone +33 (0)5.61.35.28.28; fax +33 (0)5.61.35.29.29; email: *techpub.toulouse@liebherr.com;* website: *liebherr.aero.*

• You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Steven Dzierzynski, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–1890; Project Identifier MCAI–2023–00283–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Steven Dzierzynski, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email: *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2023–09, dated February 14, 2023 (Transport Canada AD CF–2023–09) (also referred to after this as the MCAI), to correct an unsafe condition on all Bombardier, Inc., Model BD–100–1A10 airplanes. The MCAI states that Bombardier received reports from the supplier of the overheat detection sensing elements of a manufacturing quality escape. Some of the sensing elements of the bleed air leak detection system were manufactured with insufficient salt fill. This condition can result in an inability to detect hot bleed air leaks, which can cause damage to surrounding structures and systems and prevent continued safe flight and landing.

The FAA is proposing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1890.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Liebherr Service Bulletin CFD–F1958–26–01, dated May 6, 2022, which specifies part numbers for affected sensing elements.

Bombardier has issued the following service information. This service information describes procedures to prevent the take-off of an airplane with an active bleed air leak annunciated while on the ground. These documents are distinct since they apply to different airplane models.

• Section 05–42, Air Conditioning & Pressurization, Non-Normal Procedures Section, Bombardier Challenger 300 AFM (Imperial Version), Publication No. CSP 100–1, Revision 71, dated November 9, 2022. (For obtaining the procedures for Bombardier Challenger 300 AFM (Imperial Version), Publication No. CSP 100–1, use Document Identification No. CH 300 AFM–I.)

• Section 05–42, Air Conditioning & Pressurization, Non-Normal Procedures Section, Bombardier Challenger 350 AFM, Publication No. CH 350 AFM, Revision 37, dated November 9, 2022. (For obtaining the procedures for Bombardier Challenger 350 AFM, Publication No. CH 350 AFM, use Document Identification No. CH 350 AFM.)

The FAA also reviewed Bombardier Service Bulletin 100–36–10, dated December 23, 2022; and Bombardier Service Bulletin 350–36–003, dated December 23, 2022; which specify procedures for testing each leak detection loop (LDL) sensing element installed on the airplane, marking each serviceable sensing element with a witness mark, and replacing each nonserviceable part with a serviceable part. These documents are distinct since they apply to different airplane models.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information described above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require revising the existing AFM to include procedures to prevent takeoff with an active bleed air leak annunciated while on the ground. This proposed AD would also require accomplishing the actions specified in the service information

already described. This proposed AD would also prohibit the installation of affected parts.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 317 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 77 work-hours × $85 per hour = $6,545	$0	Up to $6,545	Up to $2,428,195.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this proposed AD. The FAA estimates it would take up to 1.5 hours to replace one sensor.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Bombardier, Inc.: Docket No. FAA–2023–1890; Project Identifier MCAI–2023–00283–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 13, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier, Inc., Model BD–100–1A10 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code: 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by reports that some overheat detection sensing elements of the bleed air leak detection system were manufactured with insufficient salt fill. The FAA is issuing this AD to address non-conforming sensing elements of the bleed air leak detection system. The unsafe condition, if not addressed, could result in an inability to detect hot bleed air leaks and consequent damage to surrounding structures and systems, which could prevent continued safe flight and landing.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Definitions

(1) For purposes of this AD, an affected part is a sensing element marked with a date code A0448 through A2104 inclusive and having an LTS/Kidde part number specified in Liebherr Service Bulletin CFD–F1958–26–01, dated May 6, 2022, unless that sensing element meets the criteria specified in either paragraph (g)(1)(i) or (ii) of this AD.

(i) The sensing element has been tested as specified in Section 3 of the Accomplishment Instructions of Kidde Aerospace and Defense Service Bulletin CFD–26–1, Revision 6, dated February 28, 2022, or earlier revisions, and has been found to be serviceable; and the sensing element has been marked on one face of its connector hex nut and packaged as specified in Section 3.C. of the Accomplishment Instructions of Kidde Aerospace and Defense Service Bulletin CFD–26–1, Revision 6, dated February 28, 2022, or earlier revisions.

(ii) The sensing element has been tested and found to be serviceable as specified in paragraph (i) of this AD; and the sensing element has been marked on one face of one connector hex nut with one green mark, as specified in Figure 11 of Bombardier Service Bulletin 100–36–10, dated December 23, 2022, or Bombardier Service Bulletin 350–36–003, dated December 23, 2022, as applicable (the figure is representative for all sensing elements).

(2) For purposes of this AD, a serviceable part is a sensing element that is not an affected part.

(h) Revision of the Existing Airplane Flight Manual (AFM)

For airplane serial numbers 20001 through 20457 inclusive and 20501 through 20906 inclusive: Within 30 days after the effective date of this AD, revise the existing AFM to include the information specified in paragraphs (h)(1) and (2) of this AD, as applicable.

(1) For airplane serial numbers 20001 through 20457 inclusive: Section 05–42, Air Conditioning & Pressurization, Non-Normal Procedures Section, Bombardier Challenger 300 AFM (Imperial Version), Publication No. CSP 100–1, Revision 71, dated November 9, 2022.

Note 1 to paragraph (h)(1): For obtaining the procedures for Bombardier Challenger

300 AFM (Imperial Version), Publication No. CSP 100–1, use Document Identification No. CH 300 AFM–I.

(2) For airplane serial numbers 20501 through 20906 inclusive: Section 05–42, Airconditioning & Pressurization, Non-Normal Procedures Section, Bombardier Challenger 350 AFM, Publication No. CH 350 AFM, Revision 37, dated November 9, 2022.

Note 2 to paragraph (h)(2): For obtaining the procedures for Bombardier Challenger 350 AFM, Publication No. CH 350 AFM, use Document Identification No. CH 350 AFM.

(i) Testing of Overheat Detection Sensing Elements

For airplane serial numbers 20001 through 20457 inclusive and 20501 through 20906 inclusive: Within 7,500 flight cycles or 96 months, whichever occurs first, from the effective date of this AD, test the overheat detection sensing elements to determine if they are serviceable, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–36–10, dated December 23, 2022, or Bombardier Service Bulletin 350–36–003, dated December 23, 2022, as applicable.

(1) For each sensing element that is serviceable, before further flight, mark the sensing element with a witness mark in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–36–10, dated December 23, 2022; or Bombardier Service Bulletin 350–36–003, dated December 23, 2022; as applicable.

(2) For each sensing element that is not serviceable, before further flight, replace the sensing element with a serviceable part in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–36–10, dated December 23, 2022; or Bombardier Service Bulletin 350–36–003, dated December 23, 2022; as applicable.

(j) Parts Installation Prohibition

As of the effective date of this AD, no person may install an affected part on any airplane.

(k) No Reporting Requirement

Although Bombardier Service Bulletin 100–36–10, dated December 23, 2022, and Bombardier Service Bulletin 350–36–003, dated December 23, 2022; specify to submit certain information to the manufacturer, this AD does not include that requirement.

(l) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to ATTN: Program Manager, Continuing Operational Safety, at the address identified in paragraph (m)(2) of this AD or email to: *9-avs-nyaco-cos@faa.gov.* If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or Transport Canada; or Bombardier, Inc.'s Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(m) Additional Information

(1) Refer to Transport Canada AD CF–2023–09, dated February 14, 2023, for related information. This Transport Canada AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2023–1890.

(2) For more information about this AD, contact Steven Dzierzynski, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Service Bulletin 100–36–10, dated December 23, 2022.

(ii) Bombardier Service Bulletin 350–36–003, dated December 23, 2022.

(iii) Section 05–42, Air Conditioning & Pressurization, Non-Normal Procedures Section, Bombardier Challenger 300 AFM (Imperial Version), Publication No. CSP 100–1, Revision 71, dated November 9, 2022.

Note 3 to paragraph (n)(2)(iii): For obtaining the procedures for Bombardier Challenger 300 AFM (Imperial Version), Publication No. CSP 100–1, use Document Identification No. CH 300 AFM–I.

(iv) Section 05–42, Air Conditioning & Pressurization, Non-Normal Procedures Section, Bombardier Challenger 350 AFM, Publication No. CH 350 AFM, Revision 37, dated November 9, 2022.

Note 4 to paragraph (n)(2)(iv): For obtaining the procedures for Bombardier Challenger 350 AFM, Publication No. CH 350 AFM, use Document Identification No. CH 350 AFM.

(v) Liebherr Service Bulletin CFD–F1958–26–01, dated May 6, 2022.

(3) For Bombardier service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *bombardier.com.*

(4) For Liebherr-Aerospace Toulouse SAS service information identified in this AD, contact Liebherr-Aerospace Toulouse SAS, 408, Avenue des Etats-Unis—B.P.52010, 31016 Toulouse Cedex, France; telephone +33 (0)5.61.35.28.28; fax +33 (0)5.61.35.29.29; email *techpub.toulouse@liebherr.com;* website *liebherr.aero.*

(5) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on September 22, 2023.

Victor Wicklund,

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

[FR Doc. 2023–21102 Filed 9–28–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1892; Project Identifier MCAI–2023–00626–E]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Model Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 engines. This proposed AD was prompted by a determination that certain intervals for visual inspection of the intermediate-pressure stage 8 (IP8) and high-pressure stage 3 (HP3) air transfer tubes and front bearing housing IP8 air feed tubes need to be reduced. This proposed AD would require initial and repetitive visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes for cracking, damage, or air leakage wear, and replacement, if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by November 13, 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–2023–1892; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information that is identified in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2023–1892.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Sungmo Cho, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7241; email: *sungmo.d.cho@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–2023–1892; Project Identifier MCAI–2023–00626–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Sungmo Cho, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2023–0087, dated April 26, 2023 (EASA AD 2023–0087) (also referred to after this as the MCAI), to address an unsafe condition for all RRD Model Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 engines. The MCAI states that the RRD engine time limits manual (TLM) provides instructions for visual inspection of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes for cracking, damage, or air leakage wear at intervals consistent with critical part life assessments. Also, certain inspection intervals mandated by the MCAI, and not previously included in the TLM, are shorter than the engine shop visit intervals. Thus, more frequent visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes are necessary. The manufacturer issued service information that provides instructions for visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes. This condition, if not addressed, could affect the engine internal cooling and sealing flows, resulting in failure of the IP8 air transfer tubes, HP3 air transfer tubes, and front bearing housing IP8 air feed tubes, with consequent damage to the engine and reduced control of the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1892.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2023–0087, which specifies procedures for performing initial and repetitive visual inspections of the IP8 and HP3 air transfer tubes and front bearing housing IP8 air feed tubes for cracking, damage, or air leakage wear, and replacement if necessary.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

FAA's Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the MCAI described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA

ADs. The FAA has since coordinated with other manufacturers and CAAs to use this process. As a result, the FAA proposes to incorporate by reference EASA AD 2023–0087 in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2023–0087 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions within the compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2023–0087. Service information required by the EASA AD for compliance will be available at regulations.gov by searching for and locating Docket No. FAA–2023–1892 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 16 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of air tubes	3 work-hours x $85 per hour = $255	$0	$255	$4,080

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. The agency has no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace IP8 air transfer tubes	2 work-hours × $85 per hour = $170	$7,600	$7,770
Replace HP3 air transfer tubes	2 work-hours × $85 per hour = $170	11,900	12,070
Replace front bearing housing IP8 air feed tubes	2 work-hours × $85 per hour = $170	10,000	10,170

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Rolls-Royce Deutschland Ltd & Co KG: Docket No. FAA–2023–1892; Project Identifier MCAI–2023–00626–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 13, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG Model Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7500, Engine Bleed Air System.

(e) Unsafe Condition

This AD was prompted by a determination that certain intervals for visual inspection of the intermediate-pressure stage 8 (IP8) air transfer tubes, high-pressure stage 3 (HP3) air transfer tubes, and front bearing housing IP8 air feed tubes need to be reduced. The FAA is issuing this AD to prevent failure of the IP8 and HP3 air transfer tubes and front bearing

housing IP8 air feed tubes. The unsafe condition, if not addressed, could affect the engine internal cooling and sealing flows, resulting in failure of the IP8 air transfer tubes, HP3 air transfer tubes, and front bearing housing IP8 air feed tubes, with consequent damage to the engine and reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

Except as specified in paragraph (h) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0087, dated April 26, 2023 (EASA AD 2023–0087).

(h) Exceptions to EASA AD 2023–0087

(1) Where EASA AD 2023–0087 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the Remarks paragraph of EASA AD 2023–0087.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the AIR–520, Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: *ANE-AD-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Additional Information

For more information about this AD, contact Sungmo Cho, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7241; email: *sungmo.d.cho@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0087, dated April 26, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0087, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on September 25, 2023.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–21471 Filed 9–28–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–1801; Airspace Docket No. 23–AAL–33]

RIN 2120–AA66

Modification of Class E Airspace; Klawock Airport, Klawock, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Class E airspace extending upward from 700 feet above the surface and remove the Class E airspace extending upward from 1200 feet above the surface at Klawock Airport, Klawock, AK. Additionally, this action proposes administrative amendments to update the airport's existing Class E airspace legal description. These actions would support the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before November 13, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–1801 and Airspace Docket No. 23–AAL–33 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

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

FAA Order JO 7400.11H, 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: Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–3460.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify Class E airspace to support IFR operations at Klawock Airport, Klawock, AK.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any

recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

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

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

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198.

Incorporation by Reference

Class E5 airspace designations are published in paragraph 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 proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. 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 7400.11H 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 modify the Class E airspace extending upward from 700 feet above the surface and remove the Class E airspace extending upward from 1200 feet above the surface at Klawock Airport, Klawock, AK.

The Class E airspace extending upward from 700 feet above the surface within a 6.7-mile radius should be reduced to a semicircle within the airport's 249° bearing clockwise to the 025° bearing, as operations are not authorized to the southeast of the airport and containment is not needed in that area.

In addition, an extension to the Class E airspace extending upward from 700 feet above the surface should be added to the northeast to be within 3 miles northwest and 3.3 miles southwest of the airport's 043° bearing extending to 9 miles northeast of the airport to more appropriately contain departing IFR operations until reaching 1,200 feet above the surface and arriving IFR operations below 1,500 feet above the surface, when executing the CAALM 2 Area Navigation (RNAV) Departure Procedure, or the RNAV Global Positioning System (GPS) RWY 20 and RNAV(GPS) M RWY 20 approaches.

Moreover, the southwest procedure turn area should be removed, as it is no longer needed. In its place, a southwest extension to the Class E airspace extending upward from 700 feet above the surface should be added to be within 3.3 miles southeast and 3 miles northwest of the airport's 223° bearing extending to 14.6 miles southwest of the airport. This extension would better contain departing IFR operations between the surface and 1200 feet while executing the TURTY RNAV departure and arriving IFR operations below 1,500 feet above the surface while executing the RNAV(GPS) A, RNAV (GPS) M RWY 02, RNAV (GPS) Y RWY 02, or the RNAV (GPS) Z RWY 02 approaches.

Furthermore, the Klawock Class E airspace beginning at 1,200 feet above the surface should be removed as it is redundant.

Finally, the FAA proposes administrative modifications to the airport's associated legal description. The Klawock Nondirectional Beacon/Distance Measuring Equipment navigational aid was decommissioned in 2017 and reference to it should be removed.

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 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

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

* * * * *

AAL AK E5 Klawock, AK [Amended]

Klawock Airport, AK

(Lat. 55°34′45″ N, long. 133°04′34″ W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the airport from the 249° bearing clockwise to the 025° bearing, within 3 miles northwest and 3.3 miles southeast of the 043° bearing extending from the airport to 9 miles northeast, and within 3.3 miles southeast and 3 miles northwest of the 223° bearing extending from the airport to 14.6 miles southwest.

* * * * *

Issued in Des Moines, Washington, on September 22, 2023.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2023–21223 Filed 9–28–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–1899; Airspace Docket No. 23–ASO–37]

RIN 2120–AA66

Amendment of Class D and Class E Airspace, and Establishment of Class E Airspace; Winston Salem, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D and Class E airspace extending upward from 700 feet above the surface for Smith Reynolds Airport, Winston Salem, NC. This action would also establish Class E airspace designated as an extension to a Class D surface area and amend verbiage in the Class D description.

DATES: Comments must be received on or before November 13, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–1899 and Airspace Docket No. 23–ASO–37 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 for Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* anytime. 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 for Federal holidays.

FAA Order JO 7400.11H 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: 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 would amend Class D and Class E airspace in Winston Salem, NC.

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 once 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 and 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 without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

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

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can 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 210, 1701 Columbia Ave., College Park, GA 30337.

Incorporation by Reference

Class D and Class E airspace designations are published in Paragraphs 5000, 6004, and 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 annually. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 19, 2023, and effective September 15, 2023. These updates would be published in the next FAA Order JO 7400.11 update. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this

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

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class D airspace for Smith Reynolds Airport, Winston Salem, NC, by adding an extension from the 4.2-mile radius of the airport to 5.8 miles northwest of the airport. The Class E airspace extending from 700 feet above the surface radius would increase to 9-miles (previously 6.6-miles), and all extensions removed. Moreover, the action would remove REENO NDB from the airspace description as it has been decommissioned. This action would also establish Class E airspace designated as an extension to a Class D surface area from the 4.2-mile radius to 6.5 miles southeast of the airport. In addition, this action would also remove the city name from the airport description header as per the 7400.2, as well as replacing the terms Notice to Airmen with Notice to Air Missions and Airport/Facility Directory with Chart Supplement in the Class D airspace description. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

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 Department of Transportation (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.

Lists 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 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 7400.11H, Airspace Designations and Reporting Points, dated August 19, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO NC D Winston Salem, NC [Amended]

Smith Reynolds Airport, NC
(Lat 36°08′01″ N, long 80°13′19″ W)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.2-mile radius of the Smith Reynolds Airport and 1 mile on each side of the 325° bearing of the airport, extending from the 4.2-mile radius to 5.8 miles northwest of the airport. 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 6004 Class E Airspace Designated as an Extension to Class D or E Surface Area.

* * * * *

ASO NC E4 Winston Salem, NC [Established]

Smith Reynolds Airport, NC
(Lat 36°08′01″ N, long 80°13′19″ W)

That airspace extends upward from the surface within 1 mile on each side of the 145° bearing from Smith Reynolds Airport, extending from the 4.2-mile radius of the airport to 6.5 miles southeast. 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 NC E5 Winston Salem, NC [Amended]

Smith Reynolds Airport, NC
(Lat 36°08′01″ N, long 80°13′19″ W)

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Smith Reynolds Airport.

Issued in College Park, Georgia, on September 21, 2023.

Andreese C. Davis,

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

[FR Doc. 2023–21180 Filed 9–28–23; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1000, 1025, 1051, 1052 and 1502

[CPSC Docket No. CPSC–2023–0038]

Disclosure of Interests in Commission Proceedings

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Consumer Product Safety Commission (''Commission'' or ''CPSC'') is issuing this notice of proposed rulemaking (''NPR'') to establish disclosure requirements for persons seeking to make certain appearances before the Commission. Specifically, the proposed requirements provide for disclosure of whether: any person other than the submitter authored, in whole or in part, an oral presentation, adjudicative testimony, or petition for rulemaking submitted to the Commission; any person other than the submitter made or has agreed to make a monetary contribution to fund the oral presentation, adjudicative testimony, or petition for rulemaking; and the submitter of a request to provide oral testimony before the Commission has an existing business relationship by which the submitter expects to receive direct or indirect financial benefit in connection with the oral presentation or the Commission activity that is the subject of the oral presentation. The Commission similarly proposes to require that any person seeking to participate as an intervenor or other participant in any adjudicative proceeding before the Commission shall disclose whether a party in the proceeding or a party's counsel

authored the petition to intervene or request to participate, as well as the identity of each person who has made or has agreed to make a monetary contribution to fund the request to participate or proposed participation. Additionally, the Commission proposes disclosure of certain corporate affiliations in these contexts. Finally, the Commission proposes technical revisions to its regulations establishing procedures for filing petitions for rulemaking and requests for oral presentation.

DATES: Submit comments by November 28, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2023–0038, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov.* Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by electronic mail (email), except as described below.

Mail/hand delivery/courier/confidential Written Submissions: CPSC encourages you to submit electronic comments using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7479.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov.* If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Docket: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* and insert the docket number, CPSC–2023–0038, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Hilda M. Garcia Concepcion, Attorney, Division of Federal Court Litigation, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301–504–7548; email: *hgarciaconcepcion@cpsc.gov.*

SUPPLEMENTARY INFORMATION: The Commission proposes in this NPR to amend its regulations to require disclosures of interests and sources of funding by those seeking to present oral testimony, request rulemaking before the Commission, or participate in an adjudicative proceeding. These proposed amendments are modeled after Supreme Court Rule 37.6 and Rule 29(a)(4)(e) of the Federal Rules of Appellate Procedure (FRAP). Both of those judicial rules provide that amici curiae (*i.e.,* those filing briefs as ''friends of the court'') must state: whether a party's counsel authored the brief in whole or in part; whether a party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and whether any person other than the amicus curiae, its members, or its counsel, funded preparing or submitting the brief, and if so, identifies those persons.

The proposed amendment also includes a requirement for disclosure of certain corporate affiliations that is modeled after FRAP 26.1(a), which provides that any non-governmental corporation that is a party to a proceeding must file a statement identifying any parent corporation and any publicly held corporation that owns 10% or more of its stock or stating that there is no such corporation.

I. Statutory Authority and Background

The Commission seeks to encourage interested stakeholders, including consumers and consumer organizations, among others, to participate actively in the agency's decision-making processes. This includes participation in public hearings before the Commission, adjudicative proceedings, and petitioning for rulemaking, among other opportunities. To that end, 16 CFR part 1025 establishes the Commission's Rules of Practice for Adjudicative Proceedings (''Rules of Practice''), 16 CFR part 1051 establishes the Procedures for Petitioning for Rule Making, and 16 CFR part 1052 establishes the Procedural Regulations for Informal Oral Presentations in Proceedings before the Commission.

A. Adjudicative Proceedings and Evidentiary Public Hearings

The Consumer Product Safety Act (15 U.S.C. 2064(c), (d), (f) & 2076(b)) (CPSA), Federal Hazardous Substances Act (15 U.S.C. 1274) (FHSA), Flammable Fabrics Act (15 U.S.C. 1192, 1194, 1197(b)) (FFA), and Poison Prevention Packaging Act (15 U.S.C. 1473(c)) (PPPA) all authorize the Commission to conduct adjudicative proceedings for mandatory recalls of covered products, or other action to protect the public. Final Decisions and Orders in adjudicative proceedings are decided based on an administrative record after opportunity for a hearing.

The Commission's Rules of Practice at 16 CFR 1025.17, titled ''Intervention,'' allow persons who are not parties to an adjudication to apply for participation as either an intervening party or a non-party. In making a discretionary determination to grant or deny participation, the presiding officer is required to consider, among other things, the extent to which the petitioner's intervention may reasonably be expected to assist in developing a sound record; the extent to which the petitioner's interest will be represented by existing parties; the extent to which the petitioner's intervention may broaden the issues or delay the proceedings; and the extent to which the person's participation can be expected to assist the presiding officer and the Commission in rendering a fair and equitable resolution of all matters in controversy. If the presiding officer determines that there is a duplication of interest among those seeking to participate, the presiding officer may limit the participation by designating a single representative. 16 CFR 1025.17(f).

In addition to these adjudications, the Commission may hold formal evidentiary public hearings under certain sections of the FHSA and PPA. Part 1502 of the Commission's rules establishes procedures for these formal evidentiary public hearings, including the processes for requesting hearings and filing notices of participation. 16 CFR 1502.5–1502.17.

B. Petitions for Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553(e)), any person may petition the Commission to issue, amend, or revoke Commission regulations under the Acts the Commission administers. At 16 CFR part 1051, the Commission has established procedures for the submission and disposition of petitions for the issuance, amendment, or revocation of rules under the CPSA or other statutes administered by the Commission.

Section 1051.5(a) establishes the requirements for petitioning for rulemaking, which include that the petition shall be written in English, contain the name and address of the petitioner, indicate the product

regulated under the CPSA or other statute administered by the Commission for which rulemaking is sought, set forth facts establishing that the rulemaking is necessary, make an explicit request to the Commission to initiate rulemaking, and set forth a brief description of the substance of the proposed rule, amendment, or revocation. The Commission may grant or deny the petition. 16 CFR 1051.10, 1051.11.

C. Informal Oral Presentations in Proceedings Before the Commission

The CPSA (15 U.S.C. 2058(d)(2) and 2064(c)), FHSA (*id.* 1274), FFA (*id.* 1193(d)), and PPPA (*id.* 1473(c)) all require the Commission to give interested persons an opportunity to make oral presentations of data, views, or arguments, or provide for an opportunity for a hearing regarding rulemaking. The CPSA also authorizes informal hearings or other inquiries, which can be conducted by the Commission or by one or more of its members, or by designated agents in non-rulemaking situations. 15 U.S.C. 2076(a). The CPSA further provides that the Commission shall conduct a public hearing on the annual agenda and priorities for Commission action. 15 U.S.C. 2053(j). Section 1000.8 of the Commission's rules provides that the Commission may conduct hearings as necessary or appropriate to its functions and will afford reasonable opportunity for interested persons to present relevant testimony at such hearings.

Part 1052 of the Commission's rules sets forth the rules of procedure for oral presentation of data, views or arguments in informal rulemakings or investigatory situations. The Chairman of the Commission, or another presiding officer appointed by the Chairman with the concurrence of the Commission, shall have the powers necessary to secure the efficient conduct of the oral proceedings, including the right to require a single representative to present the views of others with similar interests. 16 CFR 1052.4.

II. Reasons for Proposed Revisions

The proposed rule changes are based on the Supreme Court Rules and the FRAP, which establish requirements for amicus curiae briefs written by non-parties to assist the court by providing relevant information not otherwise submitted, and on the FRAP's provisions for disclosure of certain corporate affiliations.

In 1997 the Supreme Court amended its rules to require disclosure of a party's involvement in the drafting or funding of non-governmental amicus briefs. Supreme Court Rule 37.6 provides that ''a brief filed under this Rule shall indicate whether counsel for a party authored the brief in whole or in part and whether such counsel or a party made a monetary contribution intended to fund the preparation or submission of the brief, and shall identify every person or entity, other than the *amicus curiae,* its members, or its counsel, who made such a monetary contribution.''

Similarly, FRAP 29(a)(4)(E), adopted in 2010 and modeled after Supreme Court Rule 37.6, provides that an amicus filer that is not a Federal or state government entity must include a statement in the amicus brief addressing whether ''a party's counsel authored the brief in whole or in part;'' whether ''a party or party's counsel contributed money that was intended to fund preparing or submitting the brief,'' and whether ''a person—other than the amicus curiae, its member, or its counsel—contributed money that was intended to fund preparing or submitting the brief and, if so, identifies each such person.''

The Supreme Court is understood to have adopted its disclosure rule ''in an effort to stop parties in a case from surreptitiously 'buying' what amounts to a second or supplemental merits brief, disguised as an amicus brief, to get around word limits.'' Supreme Court Rule Crimps Crowd-Funded Amicus Briefs, *LAW.COM* (Dec. 10, 2018, 2:53 p.m.), available at *https://www.yahoo.com/entertainment/supreme-court-rule-puts-crimp-075351473.html?guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAADJ2YF4CP_uQ2RVhjKDq6IXyiSRacfhjKhuXKIh9V-bTxca5H7uVdDtnYSHb-TcniJrVwTS9p-jWaoOjsHmckiI0QQi OpbBnFmxvQjHlFKr0 OiPoouGbezukzy88VPBIP6I2 Ghg8OUcDL-2TW0ZZ2Uy S4LklU3RQhFqaXmAs4Xuw,* Supreme Court Rule Crimps Crowd-Funded Amicus Briefs | National Law Journal. In 2018, the Supreme Court's Public Information Office further explained that ''Rule 37.6 [serves] to preclude an amicus from filing a brief if contributors are anonymous.'' *LAW.COM*, *supra.* The parallel Federal Rule of Appellate Procedure serves efficiency and transparency goals by ''deter[ring] counsel from using an *amicus* brief to circumvent page limits'' that the FRAP places on parties' briefs. FRAP 29(c)(5) advisory committee's note to 2010 amendment.

Like these rules of the U.S. Supreme Court and Federal Court of Appeals, the proposed rules would deter circumvention of Commission procedural requirements, avoid redundant presentations, and improve transparency regarding the motivations of those with an interest in proceedings before the Commission. The disclosure requirement for any contributing party improves the fairness and accuracy of decision-making by providing the Commission relevant information it otherwise lacks. Knowing if a proposed participant is funded or financed by another or has a business relationship by which the proposed participant expects to receive financial benefit in connection with the oral presentation or the Commission activity subject of the oral presentation, assists the Commission in appropriately evaluating the intent of the proposed participation, identifying bias or special interest, and eliminating duplicative presentations. Just as the Federal courts' disclosure requirements provide the decisionmakers, the litigants, and the general public insight into the parties that are framing the appellate proceeding, *see* S. Whitehouse, *A Flood of Judicial Lobbying: Amicus Influence and Funding Transparency,* 131 Yale L.J. F. 141 (Oct. 24, 2021), the proposed rule changes will allow the Commission, the parties to a matter, and the public to know who is seeking to influence the Commission's decisions on consumer product safety issues. With the proposed disclosure requirements, the Commission can better identify those seeking to influence its decisions and better maintain the efficiency and integrity of the proceedings. Indeed, particularly in the context of the Commission's adjudicative proceedings, the function of the proposed rule's requirements is precisely the same as the role of the parallel Supreme Court and appellate rules.

In adjudicative proceedings when considering a petition to intervene or request to participate, the presiding officer will consider, among other things, the extent to which the participation will assist the Commission in rendering a fair and equitable resolution of the matters in controversy, the extent to which a petitioner's interest will be represented by an existing party, and the extent to which the participation might delay the proceedings. 16 CFR 1025.17(d) and (e). The presiding officer also has the power to designate a single representative where the petitioner or requester shares ''identity of interest'' with any other intervenor or participant. 16 CFR 1025.17(f). Similarly, when making determinations regarding objections or requests for a public hearing under 16

CFR part 1502, the Commission may broadly investigate whether a hearing has been justified. *See* 16 CFR 1502.8.

When considering petitions for rulemaking, the Commission considers, among other factors, whether failure to initiate the requested proceeding would unreasonably expose the petitioner or other consumers to a risk of injury. To allocate its limited resources, the Commission treats as an important component of each petition the relative priority of the risk of injury associated with the product. 16 CFR 1051.9. When rulemaking petitions are filed by parties—such as consultants—who do not disclose the identity of their paying clients or others whose interests they represent, the Commission is less able to assess accurately the actual priority of the asserted risk of injury. Therefore, the information afforded by the proposed disclosure requirements better positions the Commission to prioritize the requests it receives.

The Procedural Regulations for Oral Presentations in Proceedings Before the Consumer Product Safety Commission already give the officer presiding over a hearing authority to: (1) apportion the time for presentations; (2) terminate or shorten a presentation that is repetitive or not relevant; and (3) identify groups or persons with the same or similar interests in the proceedings and require a single representative to present the views of participants who have the same or similar interests. To do this, the presiding officer may question those making an oral presentation as to their testimony and any other relevant matter. 16 CFR 1052.4(c).

The pre-hearing disclosure requirements proposed in this NPR likewise serves the public interest by avoiding repetitive, inefficient, and/or misleading testimony that can come as a result of multiple presentations that in fact represent a single interest. It complements the Commission's practice of requiring those seeking to make an oral presentation to provide, as part of their request, the written text of the proposed oral presentation.[1]

Importantly, this NPR's proposals do not limit participation in Commission proceedings, but only provide the Commission and the public additional information about potential participants. We agree on this point with the United States Chamber of Commerce, which explained, in discussing FRAP 29(a)(4)(e), that its approach ''strikes an appropriate and time-tested balance between the interest in protecting the integrity of the *amicus* process and the protection of associational rights.'' Letter from Daryl Joseffer, Exec. Vice President & Chief Couns., U.S. Chamber of Commerce Litigation Center., to Honorable Jay S. Bybee (Oct. 6, 2021) (discussing potential amendments to the amicus disclosure requirements of FRAP 29), available at *https://www.uscourts.gov/sites/default/files/21-ap-h_suggestion_from_sen._whitehouse_and_rep._johnson_-_rule_29_0.pdf.*

Similarly, the proposed requirements to disclose business interests that may shape an oral presentation do not implicate or burden associational rights. The proposed rules require disclosure of direct or indirect financial benefits that are expected to stem from the Commission's relevant activity, or participation in it. For example, the requester might receive payment specifically for appearing before the Commission or, might expect an indirect financial benefit if a client (such as a client in an ongoing contract for consulting services) will be directly affected by the Commission's activity. The disclosure of these pertinent financial interests does not require the identification of specific business partners, but rather disclosure of the existence of a business relationship by which the requester expects to receive a direct or indirect financial benefit. These disclosure requirements provide information that is useful for the Commission to assess proposed testimony and, if participation is granted, to place it in context.

Other Federal and state agencies have similar disclosure requirements, either in their rules or as part of the information that must be provided when making submissions. As an example, the Federal Communications Commission requires that a person seeking to submit a filing in its proceedings must identify the person or entities ''whose views the filing represents.'' Federal Communications Commission, Submit Standard Filing, available at *https://www.fcc.gov./ecfs/filings/standard.* Similarly, Rule 1.4(b)(1) of the Rules of Practice and Procedure of the California Public Utilities Commission requires a person seeking to become a party to a proceeding before that agency to ''fully disclose the persons or entities in whose behalf the filing [of the motion to become a party], appearance or motion is made, and the interest of such persons or entities in the proceeding.''

The proposed disclosure of interest requirements would not only improve transparency and efficiency as a general matter, but also allow the Commission and its staff, including presiding officers in adjudications, to better identify potential conflicts of interest or other ethical concerns that could arise from the identities or interests of participants in those proceedings.

Relatedly, and similar to the FRAP, the proposed rules require disclosure of certain corporate affiliations. The purpose of the corporate disclosure statement required by the FRAP 26.1 is to assist judges in making a determination of whether they have interests in any of a party's related corporate entities that would disqualify the judge from participating in a judicial appeal. *See* Fed R. App. P. 26.1(a) advisory committee's note to 1998 amendment; Fed R. App. P. 26.1(a) advisory committee's note on Rules-1989. In the same way, the proposed requirements for disclosure of certain corporate affiliations will better enable CPSC Commissioners and staff to identify a potential conflict of interest that might merit recusal from a proceeding. *See* 18 U.S.C. 208(a) (generally barring Federal employees from participating personally and substantially in any particular matter in which they know they, or any person whose interest is imputed to them, have a financial interest directly and predictably affected by the matter); 16 CFR 1025.42(e) (disqualification of presiding officers in adjudicative proceedings). Disclosure of underlying corporate interests also may serve efficiency interests by allowing the Commission and its presiding officers to better organize proceedings to reflect commonalities of interest among the participants.

As with the disclosure interest requirements discussed above, corporate disclosure requirements are required by other administrative agencies. For example, the Occupational Safety and Health Review Commission (OSHRC) requires that: ''All answers, petitions for modification of abatement period, or other initial pleadings filed under these rules by a corporation shall be accompanied by a separate declaration listing all parents, subsidiaries, and affiliates of that corporation or stating that the corporation has no parents, subsidiaries, or affiliates, whichever is applicable.'' 29 CFR 2200.35.

There may be material interests that would not be revealed even under this NPR's proposals. In section IX below, we seek comment whether other amendments to the Commission's rules should be adopted to promote the purposes of this NPR in circumstances that are not covered by the specific rules proposed here.

[1] *See, e.g.,* Commission Agenda and Priorities, Notice of Hearing, 87 FR 15,209 (Mar. 17, 2022); Safety Standard for Clothing Storage Units; Notice of Opportunity for Oral Presentation and Comments, 87 FR 11,366 (Mar. 1, 2022).

III. Description of the Proposed Revisions

This section describes the changes proposed in this NPR in the order in which they will appear in the Commission's rules.

A. Table of Contents

The NPR proposes conforming changes to the Tables of Contents for 16 CFR parts 1025 and 1052.

B. Part 1000—Commission Organization and Functions

1. Proposed Changes to § 1000.5 (Petitions)

In conjunction with the proposed changes regarding requirements for testimony and participation in Commission proceedings, the NPR proposes a technical change that directs petitioners to follow the procedure for submitting petitions found in 16 CFR part 1051.

2. Proposed Changes to § 1000.8 (Meetings and Hearings; Public Notice)

To conform to the proposed changes implementing disclosure of interest requirements for testimony and participation in Commission proceedings, the NPR proposes to add a new paragraph (e) stating: ''Any person requesting the opportunity to present oral testimony before the Commission shall satisfy the requirements in § 1052.3.''

C. Part 1025—Subpart B—Pleadings, Form, Execution, Service of Documents

The NPR proposes to adopt disclosure of interest requirements for any person seeking to provide testimony or participate in an adjudicative proceeding before the Commission. The proposed changes would align CPSC's Rules of Procedure with the amicus funding disclosure requirements in Supreme Court Rule 37.6 and FRAP 29(a)(4)(e). The disclosure of interest requirements will improve transparency and lessen the likelihood of delay or repetition in adjudicative proceedings by giving the presiding officer information necessary to determine the identity of interest of those seeking to participate. For Part 1025–Subpart B, the NPR proposes to replace the heading of § 1025.17 ''Intervention'' with ''Participation.'' This is a non-substantive change to better align the heading of the section with its content.

The NPR also proposes to add a new paragraph (3) to § 1025.17(a), ''Participation as an intervenor,'' adding a new requirement for a petition to intervene in an adjudicative proceeding. The proposed paragraph (a)(3) reads as follows:

(3) Unless a petition to intervene is made by the United States or a State, local or foreign government, or by an agency thereof, or an Indian Tribe, city, county, town or similar entity when submitted by its law officer, the petition shall include a statement that indicates whether:

(i) a party or a party's counsel authored the petition to intervene in whole or in part, and, if so, identifies such party;

(ii) a party or a party's counsel has made or has agreed to make a monetary contribution to the petitioner intended to fund the petition or proposed participation and, if so, identifies such party; and

(iii) a person other than the petitioner, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the petition or proposed participation and, if so, identifies each such person;

(iv) if no such authorship or contributions were or will be provided, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised.

New paragraph 1025.17(a)(4) would require a corporate disclosure statement for corporations that seek to participate as intervenors.

Current paragraph (3) of § 1025.17(a) would be redesignated as paragraph (5), with no other changes.

The NPR also proposes to add similar disclosure of interest requirements and corporate disclosure requirements for persons who request to participate in an adjudicative proceeding without gaining the party status of an intervenor.

D. Part 1051—Procedure for Petitioning for Rulemaking

1. Proposed Changes to § 1051.1 (Scope)

Section 1051.1(b) states the requirements and recommendations to be followed by those seeking to file a petition for rulemaking. The NPR proposes to clarify this provision by replacing ''Persons filing petitions for rulemaking shall follow as closely as possible the requirements and are encouraged to follow as closely as possible the recommendations for filing petitions under § 1051.5'' with ''Persons filing petitions for rulemaking shall satisfy the requirements in § 1051.5(a) and are encouraged to follow as closely as possible the recommendations for filing petitions under § 1051.5(b).''

To conform with these changes, the NPR also proposes a change to § 1051.1(c). The NPR proposes to replace the last sentence of § 1051.1(c), which currently reads ''In addition, however, persons filing such petitions shall follow the requirements and are encouraged to follow the recommendations for filing petitions as set forth in § 1051.5,'' with ''In addition, persons filing such petitions shall satisfy the requirements in § 1051.5(a) and are encouraged to follow the recommendations for filing petitions in § 1051.5(b).''

2. Proposed Changes to § 1051.3 (Place of Filing)

To improve efficiency and reflect current technologies, the NPR proposes to provide that petitions for rulemaking may be filed by electronic submission, in addition to mail or hand delivery.

3. Proposed Changes to § 1051.4 (Time of Filing)

To conform to the change proposed in § 1051.3 to include electronic submission as a permitted method of filing petitions for rulemaking, the NPR proposes clarification to the time of filing. The proposed revised section reads as follows:

A petition shall be considered filed by electronic submission (*i.e.,* emailed) when it is received in the Office of the Secretary. If the electronic submission is received outside of business hours, or on a weekend or holiday, the date of receipt shall be the next business day. A petition shall be considered filed by mail or in person when time-date stamped as received in the Office of the Secretary.

4. Proposed Changes to § 1051.5 (Requirement and Recommendations for Petitions)

The NPR proposes to add the disclosure of interest and corporate disclosure requirements as new paragraphs ''(3)'' and ''(4)'' of § 1051.5(a), which read as follows:

(3) Unless the petition is made by the United States or a State, local or foreign government or by an agency thereof, or an Indian Tribe, city, county, town or similar entity when submitted by its law officer, the petition shall include a statement that indicates whether:

(i) a person, other than the petitioner, its members, or its counsel authored the petition in whole or in part and, if so, identifies each such person; and

(ii) a person other than the petitioner, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the petition and, if so, identifies each such person;

(iii) if no such authorship or contributions were or will be provided,

the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised.

(4) In the case of a corporation, contain a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock, or state that there is no such corporation.

To conform with these proposed additions, former requirements ''(3), (4) and (5)'' would become, respectively, requirements ''(5), (6) and (7).''

E. Part 1052—Procedural Regulations for Informal Oral Presentations in Proceedings Before the Consumer Product Safety Commission

1. Proposed Changes to § 1052.1 (Scope and Purpose)

Section 1052.1 states the Scope and Purpose for informal oral presentations in proceedings before the Commission. For clarity and uniformity, and in order to ensure the disclosure of interest requirements apply generally throughout CPSC's proceedings, the NPR proposes to reference in § 1052.1(a) the following statutory provisions: Section 15(c) and (d) of the Consumer Product Safety Act, 15 U.S.C. 2064(c) and (d), section 15 of the Federal Hazardous Substances Act, 15 U.S.C. 1274, section 4(j) of the Consumer Product Safety Act, 15 U.S.C. 2053(j), and 16 CFR 1000.8, all of which provide that the Commission shall give interested persons an opportunity for oral presentations or an opportunity for a hearing before the Commission. Reflecting this new specificity and to avoid confusion, the NPR also proposes to eliminate from this paragraph (a) the following, less specific language: ''Several rulemaking provisions of the statutes administered by the Commission are subject only to the rulemaking procedures of the Administrative Procedure Act. Section 4(c) of the Administrative Procedure Act provides that the opportunity for oral presentations may or may not be granted in rulemaking under that section.''

The NPR further proposes minor changes to § 1052.2(b) with the same purpose of achieving clarity and uniformity throughout its regulations and statutes.

2. Proposed Changes to § 1052.3 (Conduct of Oral Presentation)

The NPR proposes to add a new § 1052.3 for informal oral presentations in proceedings before the Commission, to be titled ''Requesting Opportunity for Oral Presentations.'' The proposed section reads:

§ 1052.3 Requesting opportunity for oral presentations.

(a) Unless otherwise stated in the **Federal Register** notice referenced in § 1052.2, any person who seeks to make an oral presentation shall make an electronic submission of the request to the Office of the Secretary, Consumer Product Safety Commission at *cpsc-os@cpsc.gov,* not later than five business days before the scheduled opportunity.

(b) Unless otherwise stated in the **Federal Register** notice referenced in § 1052.2, the request to make an oral presentation shall:

(1) Be written in the English language;

(2) Contain the name and address of the requester, and its counsel, if any;

(3) Contain the name and address of any person on whose behalf the requested oral presentation is to be made;

(4) Unless the request to make an oral presentation is made by the United States or a State, local or foreign government, or by an agency thereof, or an Indian Tribe, city, county, town or similar entity when submitted by its law officer, the request shall include a statement that indicates whether:

(i) a person other than the requester, its members, or its counsel authored the request in whole or in part and, if so, identifies such person;

(ii) a person other than the requester, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the oral presentation and, if so, identifies each such person;

(iii) the requester has an existing business relationship by which the requester expects to receive direct or indirect financial benefit in connection with the oral presentation or the Commission activity that is the subject of the oral presentation and, if so, describes the nature of that business relationship;

(iv) if no such authorship or contributions were or will be provided, and no such business relationship exists, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised and no business relationship that is reportable under this Rule exists.

(5) If the requester is a corporation, contain a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock, or state that there is no such corporation.

(6) Contain the written text of the proposed oral presentation.

3. Proposed Changes to New § 1052.4 (Conduct of Oral Presentation)

Given the addition of new 16 CFR 1052.3 ''Requesting Opportunity for oral presentations,'' the NPR proposes to renumber former § 1052.3 ''Conduct of oral presentation'' as § 1052.4. For clarity, the NPR also proposes to make a technical change and to eliminate ''legislative type'' from paragraph (b). The proposed § 1052.4(b) would read: ''(b) The oral presentation, which shall be taped or transcribed, shall be an informal, non-adversarial proceeding at which there will be no formal pleadings or adverse parties.''

4. Proposed Changes to New § 1052.5

Also, as a conforming change, the NPR proposes to renumber § 1052.4 ''Presiding Officer; appointment, duties and powers'' as § 1052.5, with no other changes.

F. Part 1502—Procedures for Formal Evidentiary Public Hearing

1. Proposed Changes to Subpart B—Initiation of Proceedings—§ 1502.5 (Initiation of a Hearing Involving the Issuance, Amendment, or Revocation of a Regulation)

Consistent with the other proposed changes requiring disclosure of interests and corporate affiliations for testimony and participation in Commission proceedings, the NPR proposes to add a new paragraph (c) to § 1502.5, stating: ''Any person requesting the opportunity for a public hearing under this part shall satisfy the disclosure requirements of § 1025.17(b)(3) and (4), in addition to all requirements in this part.''

2. Proposed Changes to Subpart C—Notice of Participation—§ 1502.16 (Notice of Participation)

In conjunction with the changes proposed above, the NPR proposes to require disclosure of interests and corporate disclosure within the notice of participation to be filed under 16 CFR 1502.16(a).

IV. Environmental Considerations

The Commission's regulations address whether the agency must prepare an environmental assessment or an environmental impact statement. Under these regulations, certain categories of CPSC actions that have ''little or no potential for affecting the human environment'' do not require an environmental assessment or an environmental impact statement. 16 CFR 1021.5(c). The proposed changes to the rules fall within the categorical exclusion and therefore, no environmental assessment or

environmental impact statement is required.

V. Regulatory Flexibility Analysis

Under section 603 of the Regulatory Flexibility Act (RFA), when the Administrative Procedure Act (APA) requires an agency to publish a general notice of proposed rulemaking, the agency must prepare an initial regulatory flexibility analysis (IRFA), assessing the economic impact of the proposed rule on small entities. 5 U.S.C. 603(a). Although the Commission has chosen to propose this disclosure rule through notice and comment procedures, the APA does not require a proposed rule when an agency issues rules of agency procedure and practice. 5 U.S.C. 553(b). Therefore, the CPSC is not required to prepare an IRFA under the RFA. *See* 79 FR 10721 (discussing IRFA requirement). Moreover, the NPR does not propose to establish mandatory requirements for, and would not impose any significant obligations on, small entities (or any other entity or party).

VI. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) establishes certain requirements when an agency conducts or sponsors a ''collection of information.'' 44 U.S.C. 3501–3520. The NPR would amend the Commission's rules for testimony and participation in proceedings before the Commission. The existing rules and the proposed revisions do not require or request information from the public, but rather, establish procedures for voluntary testimony and other participation in proceedings before the Commission. Further, the PRA does not apply to collections of information during the conduct of an administrative action or investigation involving an agency against specific individual or entities (44 U.S.C. 3518; *see* 5 CFR 1320.4(a)(2)), or to facts or opinions submitted in response to general solicitations of comments from the public (5 CFR 1320.3(h)(4)) or obtained or solicited at or in connection with public hearings or meetings (*id.* 1320.3(h)(4)). For these reasons, the proposed rule does not implicate the PRA.

VII. Executive Order 12988 (Preemption)

According to Executive Order 12988 (Feb. 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. This NPR proposes procedural provisions that are uniquely applicable to the Commission, and not enforced by state or local governments. Preemption therefore is not relevant.

VIII. Proposed Effective Date

Consistent with the APA's general requirement that the effective date of a rule be at least 30 days after publication of the final rule, the Commission proposes that the effective date of the rule will be 30 days after the date of the publication in the **Federal Register**. *See* 5 U.S.C. 553(d).

IX. Request for Comments

The Commission requests comments on all aspects of the NPR. The Commission also invites public comment on whether the same goals of transparency, fairness, efficiency, and improved decision-making should be advanced through disclosure provisions beyond those included in the NPR, for instance additional rule revisions that more fully enable the Commission to identify alignments of financial interest between different persons or entities requesting participation in the same CPSC hearing or public meeting. Comments must be submitted in accordance with the instructions in the **ADDRESSES** section of the preamble. Comments must be received no later than November 28, 2023.

List of Subjects in 16 CFR Parts 1000, 1025, 1051, 1052, and 1502

Administrative practice and procedure; Consumer protection; Requirement; Statement; Participation; Oral testimony; Petition.

For the reasons set forth in the Preamble, the Commission proposes to amend 16 CFR parts 1000, 1025, 1051, 1052 and 1502 as follows:

PART 1000—COMMISSION ORGANIZATION AND FUNCTIONS

■ 1. The authority citation for part 1000 continues to read as follows:

Authority: 5 U.S.C. 552(a).

■ 2. Revise § 1000.5 to read as follows:

§ 1000.5 Petitions.

Any interested person may petition the Commission to issue, amend, or revoke a rule or regulation by submitting a written request to the Office of the Secretary, Consumer Product Safety Commission. Petitions must comply with the Commission's procedure for petitioning for rulemaking at 16 CFR part 1051.

■ 3. Amend § 1000.8 by adding paragraph (e) to read as follows:

§ 1000.8 Meetings and hearings; public notice.

* * * * *

(e) Any person requesting the opportunity to present oral testimony before the Commission shall satisfy the requirements in § 1052.3.

PART 1025—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

■ 4. The authority citation for part 1025 continues to read as follows:

Authority: Consumer Product Safety Act (secs. 15, 20, 27 (15 U.S.C. 2064, 2069, 2076), the Flammable Fabrics Act (sec. 5, 15 U.S.C. 1194), the Federal Trade Commission Act (15 U.S.C. 45)), unless otherwise noted.

■ 5. Amend § 1025.17 by:

■ a. Revising the subject heading.

■ b. Redesignating paragraph (a)(3) as paragraph (a)(5).

■ c. Adding new paragraphs (a)(3) and (4).

The revisions and additions read as follows:

§ 1025.17 Participation.

* * * * *

(a)(3) Unless a petition to intervene is made by the United States or a State, local or foreign government, or by an agency thereof, or an Indian Tribe, city, county, town or similar entity when submitted by its law officer, the petition shall include a statement that indicates whether:

(i) a party or a party's counsel authored the petition to intervene in whole or in part, and, if so, identifies such party;

(ii) a party or a party's counsel has made or has agreed to make a monetary contribution to the petitioner intended to fund the petition or proposed participation and, if so, identifies such party; and

(iii) a person other than the petitioner, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the petition or proposed participation and, if so, identifies each such person;

(iv) if no such authorship or contributions were or will be provided, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised.

(a)(4) If the petitioner is a corporation the petition shall include a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or state that there is no such corporation.

* * * * *

PART 1051—PROCEDURE FOR PETITIONING FOR RULEMAKING

■ 6. The authority citation for part 1051 continues to read as follows:

Authority: 5 U.S.C. 553(e), 5 U.S.C. 555(e).

■ 7. Amend § 1051.1 by revising paragraph (b), and the last sentence in paragraph (c) to read as follows:

§ 1051.1 Scope.

* * * * *

(b) Persons filing petitions for rulemaking shall satisfy the requirements in § 1051.5(a) and are encouraged to follow as closely as possible the recommendations for filing petitions under § 1051.5(b).

(c) * * * In addition, persons filing such petitions shall satisfy the requirements in § 1051.5(a) and are encouraged to follow the recommendations for filing petitions in § 1051.5(b).

■ 8. Revise § 1051.3 to read as follows:

§ 1051.3 Place of filing.

A petition shall be filed in any of the following ways:

(1) *By electronic submission.* A petition shall be emailed to: Office of the Secretary, Consumer Product Safety Commission at *cpsc-os@cpsc.gov;* or

(2) *Mail/hand delivery/courier.* A petition shall be mailed or hand delivered to the Office of the Secretary, Consumer Product Safety Commission, at 4330 East West Highway, Bethesda, MD 20814.

■ 9. Revise § 1051.4 to read as follows:

§ 1051.4 Time of filing.

A petition shall be considered filed by electronic submission when it is received in the Office of the Secretary. If the electronic submission is received outside of business hours, or on a weekend or holiday, the date of receipt shall be the next business day. A petition shall be considered filed by mail or in person when time-date stamped as received in the Office of the Secretary.

■ 10. Amend § 1051.5 by:

■ a. Redesignating paragraphs (a)(3), (a)(4), and (a)(5) as paragraphs (a)(5), (a)(6), and (a)(7).

■ b. Adding new paragraphs (a)(3) and (4).

The revisions and additions read as follows:

§ 1051.5 Requirements and recommendations for petitions.

* * * * *

(a)(3) Unless the petition is made by the United States or a State, local or foreign government or by an agency thereof, or Indian Tribe, city, county, town or similar entity when submitted by its law officer, include a statement that indicates whether:

(i) a person, other than the petitioner, its members, or its counsel authored the petition in whole or in part and, if so, identifies each such person; and

(ii) a person other than the petitioner, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the petition and, if so, identifies each such person;

(iii) if no such authorship or contributions were or will be provided, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised.

(a)(4) If the petitioner is a corporation, include a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or state that there is no such corporation.

* * * * *

PART 1052—PROCEDURAL REGULATIONS FOR INFORMAL ORAL PRESENTATIONS IN PROCEEDINGS BEFORE THE CONSUMER PRODUCT SAFETY COMMISSION

■ 11. The authority citation for part 1052 continues to read as follows:

Authority: 15 U.S.C. 1193(d), 15 U.S.C. 2058(d)(2), 15 U.S.C. 2076(a), and 5 U.S.C. 553(c).

■ 12. Amend § 1052.1 by revising the last two sentences of paragraph (a), and the first sentence in paragraph (b) to read as follows:

§ 1052.1 Scope and purpose.

(a) * * * Section 15(c) and (d) of the Consumer Product Safety Act, 15 U.S.C. 2064(c) and (d), and section 15 of the Federal Hazardous Substances Act, 15 U.S.C. 1274, provide that the Commission will afford interested persons, including consumers and consumer organizations, an opportunity for a hearing. In addition, section 27(a) of the Consumer Product Safety Act, 15 U.S.C. 2076(a), authorizes informal proceedings that can be conducted in non-rulemaking investigatory situations; section 4(j) of the Consumer Product Safety Act, 15 U.S.C. 2053(j), provides that the Commission shall conduct a public hearing on the annual agenda and priorities for Commission action; and as set forth in § 1000.8 of the Commission's rules, the Commission may conduct any hearings necessary to its functions and afford reasonable opportunity for interested persons to present relevant testimony.

(b) This part sets forth rules of procedure for the oral presentation of data, views or arguments in the informal rulemaking or investigatory situations or hearings described in paragraph (a) of this section or under any other laws administered by the Commission. * * *

§§ 1052.3 and 1052.4 [Redesignated as §§ 1052.4 and 1052.5]

■ 13. Redesignate § 1052.3 and § 1052.4 as § 1052.4 and § 1052.5, and add a new § 1052.3 to read as follows:

§ 1052.3 Requesting opportunity for oral presentations.

(a) Unless otherwise stated in the **Federal Register** notice referenced in § 1052.2, any person who seeks to make an oral presentation shall make an electronic submission of the request to the Office of the Secretary, Consumer Product Safety Commission at *cpsc-os@cpsc.gov,* not later than five business days before the scheduled opportunity.

(b) Unless otherwise stated in the **Federal Register** notice referenced in § 1052.2, the request to make an oral presentation shall:

(1) Be written in the English language;

(2) Contain the name and address of the requester, and its counsel, if any;

(3) Contain the name and address of any person on whose behalf the requested oral presentation is to be made;

(4) Unless the request to make an oral presentation is made by the United States or a State, local or foreign government, or by an agency thereof, or an Indian Tribe, city, county, town or similar entity when submitted by its law officer, the request shall include a statement that indicates whether:

(i) a person other than the requester, its members, or its counsel authored the request in whole or in part and, if so, identifies such person;

(ii) a person other than the requester, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the oral presentation and, if so, identifies each such person;

(iii) the requester has an existing business relationship by which the requester expects to receive direct or indirect financial benefit in connection with the oral presentation or the Commission activity that is the subject of the oral presentation and, if so, describes the nature of that business relationship;

(iv) if no such authorship or contributions were or will be provided, and no such business relationship exists, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised and no business relationship that is reportable under this Rule exists.

(5) If the requester is a corporation, contain a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock, or state that there is no such corporation.

(6) Contain the written text of the proposed oral presentation.

■ 14. In newly redesignated § 1052.4, revise paragraph (b) to read as follows:

§ 1052.4 Conduct of oral presentation.

* * * * *

(b) The oral presentation, which shall be taped or transcribed, shall be an informal, non-adversarial proceeding at which there will be no formal pleadings or adverse parties.

* * * * *

PART 1502—PROCEDURES FOR FORMAL EVIDENTIARY PUBLIC HEARING

■ 15. The authority citation for part 1502 continues to read as follows:

Authority: 15 U.S.C. 1261(q)(1)(B), 1262(a), 1262(e), 1269(a); 15 U.S.C. 1474(a); 21 U.S.C. 371(e)–(g).

■ 16. Amend § 1502.5 by adding a new paragraph (c) to read as follows:

§ 1502.5 Initiation of a hearing involving the issuance, amendment, or revocation of a regulation.

* * * * *

(c) Any person requesting the opportunity for a public hearing under this part shall satisfy the disclosure requirements of § 1025.17(b)(3) and (4), in addition to all requirements in this part.

■ 17. Amend § 1502.16 by revising paragraph (a) to read as follows:

§ 1502.16 Notice of participation.

(a) Within 30 days after publication of the notice of hearing under § 1502.13, a person desiring to participate in a hearing is to file with the Office of the Secretary a notice of participation containing the following information:

(i) Date of submission;

(ii) Title of submission: Notice of Participation;

(iii) To whom the notice is being directed: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD. Mailing address: Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; *CPSC-OS@cpsc.gov.*

(iv) Title of Regulation and CPSC Docket Number;

(v) Name and contact information of person or entity seeking to participate, including Street Address, City, State, and Zip Code, Telephone number, and email address;

(vi) Service on the above will be accepted by: Name, Street Address, City, State, and Zip Code, Telephone number, and email address;

(vii) The following statements are made as part of this notice of participation:

(A) *Specific interests.* Provide a statement of the specific interest of the person in the proceeding, including the specific issues of fact concerning which the person desires to be heard. This part need not be completed by a party to the proceeding;

(B) *Commitment to participate.* Provide a statement that the person will present documentary evidence or testimony at the hearing and will comply with the requirements of § 1502.25 of these procedures;

(C) *Disclosure of interest.* Unless the notice of participation is made by the United States or a State, local or foreign government, or by an agency thereof, or Indian Tribe, city, county, town or similar entity when submitted by its law officer, provide a statement that indicates whether:

(1) A party or a party's counsel authored the notice of participation in whole or in part, and, if so, identifies such party;

(2) A party or a party's counsel has made or has agreed to make a monetary contribution intended to fund the proposed participation and, if so, identifies such party; and

(3) A person other than the one filing the notice of participation, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the proposed participation and, if so, identifies each such person;

(4) If no such authorship or contributions were or will be provided, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised;

(D) *Corporate disclosure.* If the proposed participant is a corporation the notice shall include a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or state that there is no such corporation; and

(viii) Signature.

* * * * *

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2023–20184 Filed 9–28–23; 8:45 am]

BILLING CODE 6355–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2023–0024]

RIN 0960–AI83

Intermediate Improvement to the Disability Adjudication Process: Including How We Consider Past Work

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to revise the time period that we consider when determining whether an individual's past work is relevant for purposes of making disability determinations and decisions. Specifically, we would revise the definition of past relevant work (PRW) by reducing the relevant work period from 15 to 5 years. This change would allow individuals to focus on the most current and relevant information about their past work, better reflect the current evidence base on changes over time in worker skill decay and job responsibilities, reduce processing time and improve customer service, and reduce burden on individuals.

DATES: To ensure that your comments are considered, we must receive them by no later than November 28, 2023.

ADDRESSES: You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2023–0024 so that we may associate your comment(s) with the correct regulation.

Caution: You should be careful to include in your comments(s) only information that you wish to make publicly available. We strongly urge you not to include in your comment(s) any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments(s) via the internet. Please visit the Federal eRulemaking portal at *https://www.regulations.gov.* Use the *Search* function to find docket number SSA–2023–0024. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to one week for your comment to be viewable.

2. *Fax:* Fax comments to 1–833–410–1631.

3. *Mail:* Mail your comments to the Office of Legislation and Congressional Affairs, Regulations and Reports Clearance Staff, Social Security Administration, 6401 Security Boulevard, Mail Stop 3253, Altmeyer Building, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *https://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Mary Quatroche, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 966–4794, or *regulations@ssa.gov.* For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *https://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

Statutory Definition of Disability

The Social Security Act (Act) defines disability as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment (MDI) which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months.[1] The Act also states that, for adults,[2] an individual shall be determined to have a disability only if their physical or mental impairment or impairments are of such severity that they are not only unable to do their previous work but cannot, considering their age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which they live, or whether a specific job vacancy exists for them, or whether they will be hired if they apply for work.[3] The Act defines *work which exists in the national economy* as work which exists in significant numbers either in the region where such individual lives or in several regions of the country.[4]

These proposed rules would not apply to disability benefits for children applying under title XVI (Supplemental Security Income (SSI)). These proposed rules focus on how we assess individuals' work histories when adjudicating disability claims and have no effect on the required quarters of coverage and payroll tax contributions to be insured for Social Security Disability Insurance (SSDI).

Sequential Evaluation Process

As outlined in our current regulations, we use a five-step sequential evaluation process to determine whether an individual is disabled.[5] The following is a general overview of the five-step sequential evaluation process.

At step one of the sequential evaluation process, we consider whether an individual is working, and whether the work qualifies as SGA.[6] If the individual is performing SGA, we will find that the individual is not disabled, regardless of their medical condition, age, education, and work experience. If the individual is not performing SGA, we go to the second step of the sequential evaluation process.

At step two of the sequential evaluation process, we consider whether an individual has any ''severe'' impairment(s), which significantly limits their physical or mental ability to do basic work activities,[7] and whether the impairment(s) meets the statutory duration requirement.[8] If the individual's impairment(s) is not severe or if it does not meet the duration requirement, we will find that the individual is not disabled.[9] If the individual has a severe impairment(s) that meets the duration requirement, we go to the third step of the sequential evaluation process.

At step three of the sequential evaluation process, we consider whether an individual's impairment(s) meets or medically equals in severity an impairment(s) in the Listing of Impairments.[10] If the individual's impairment(s) meets or medically equals in severity an impairment in the Listing of Impairments, we will find that the individual is disabled. If the individual does not have an impairment(s) that meets or medically equals in severity a listed impairment, we determine the individual's residual functional capacity (RFC) before we go to the fourth step of the sequential evaluation process.[11] RFC is the most an individual can do despite limitations caused by the individual's physical and mental impairments.[12] Generally we assess RFC on a regular and continuing basis meaning 8 hours a day for 5 days a week, or an equivalent work schedule.[13] These proposed rules would not affect how we evaluate steps one, two, and three of the sequential evaluation process.

At step four of the sequential evaluation process, we consider the individual's work history and whether, given their RFC, the individual can perform any of their past relevant work (PRW) either as the individual actually performed it or as the work is generally performed in the national economy.[14] If we find that the individual can perform any of their PRW, we will find that the individual is not disabled. If the individual cannot perform any of their PRW, we go to the fifth step of the sequential evaluation process.[15]

At step five of the sequential evaluation process, we refer to an individual's work history again to consider whether an individual's impairment(s) prevents them from adjusting to other work that exists in significant numbers in the national economy, considering their RFC and the vocational factors of age, education, and work experience (which may include conducting a transferable skills analysis).[16] If we find that the individual cannot adjust to other work, we will find that the individual is disabled. If we find that the individual

[1] 42 U.S.C. 423(d)(1)(A) and 1382c(a)(3)(A)–(B).

[2] The Act defines disability differently for individuals under the age of 18. 42 U.S.C. 1382c(a)(3)(C).

[3] 42 U.S.C. 423(d)(2)(A) and 1382c(a)(3)(B).

[4] *Id.*

[5] 20 CFR 404.1520 and 416.920.

[6] 20 CFR 404.1520(a)(4)(i) and 416.920(a)(4)(i). We explain substantial gainful activity at 20 CFR 404.1510, 404.1572, 416.910, and 416.972. SGA is work activity that is substantial and gainful. Substantial work involves doing significant physical or mental activities. An individual's work may be substantial even if it is done on a part-time basis or if you do less, get paid less, or have less responsibility than when you worked before. Gainful means work for pay or profit, or in work of a type generally performed for pay or profit.

[7] See 20 CFR 404.1520(a)(4)(ii) and (c), 416.920(a)(4)(ii) and (c). We explain what we mean by an impairment that is not severe in 20 CFR 404.1521 and 416.921. We use the term *impairment(s)* to mean an *impairment or combination of impairments* in this NPRM.

[8] 20 CFR 404.1520(a)(4)(ii) and 416.920(a)(4)(ii). We explain the duration requirement at 20 CFR 404.1509 and 416.909.

[9] 20 CFR 404.1520(a)(4)(ii) and (c), 416.920(a)(4)(ii) and (c).

[10] 20 CFR 404.1520(a)(4)(iii), 404.1525, 416.920(a)(4)(iii), and 416.925. The Listing of Impairments are found at 20 CFR part 404 subpart P, appendix 1, and they apply to title XVI under 20 CFR 416.925.

[11] 20 CFR 404.1520(e) and 416.920(e).

[12] See 20 CFR 404.1545 and 416.945.

[13] See SSR 96–8p: Policy Interpretation Ruling Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims.

[14] 20 CFR 404.1520(a)(4)(iv) and (f), 404.1560(b)(2), 416.920(a)(4)(iv) and (f), and 416.960(b)(2).

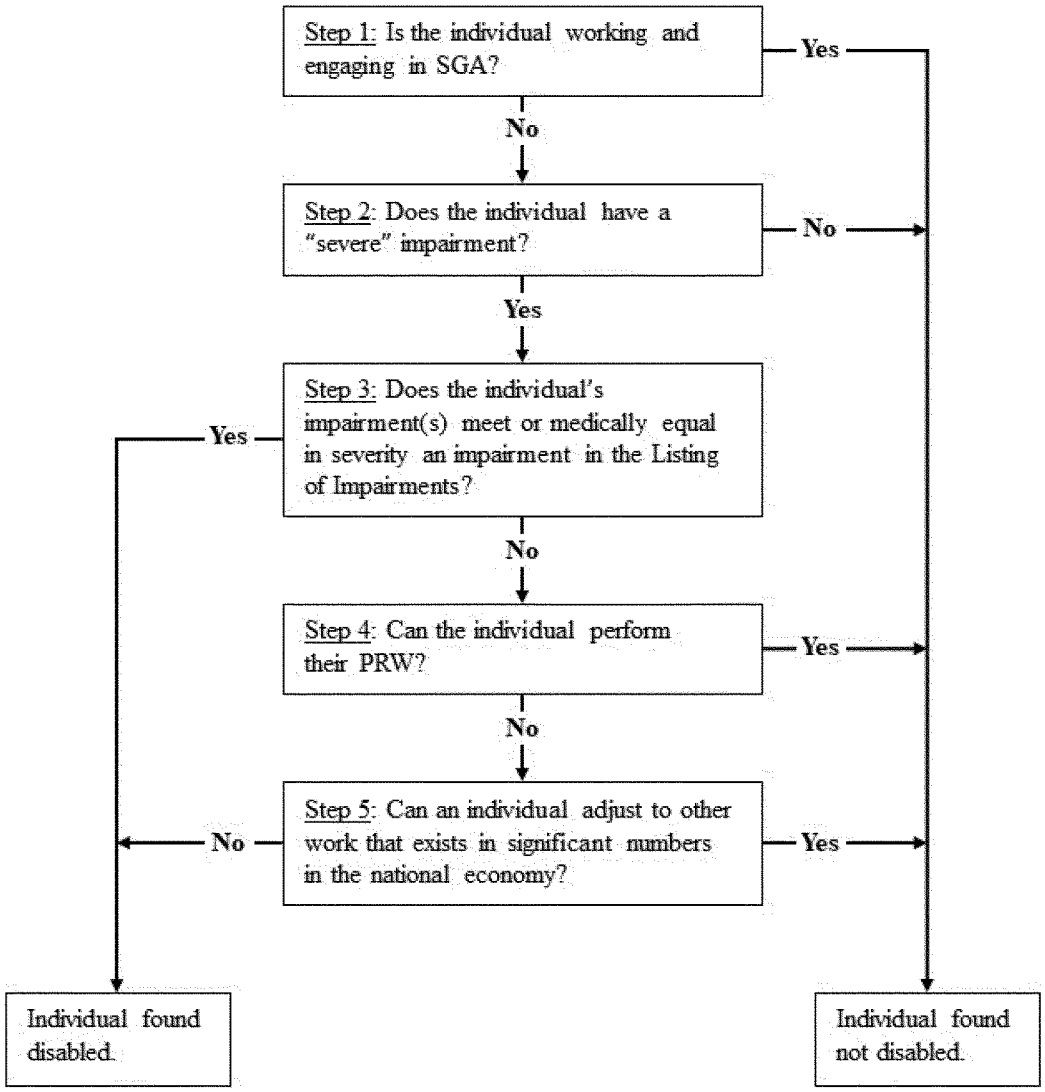
[15] We may use the expedited process described in 20 CFR 404.1520(h) and 416.920(h) to consider step five before step four when applicable.

[16] 20 CFR 404.1520(a)(4)(v), 404.1568, 416.920(a)(4)(v), and 416.968.

can adjust to other work, we will find that the individual is not disabled.

Once an individual is found disabled and receives benefits, we may periodically conduct a continuing disability review (CDR) to determine whether the individual continues to be disabled.[17] Although the CDR rules use a different sequential evaluation process, the final two steps of the process used for CDRs (steps seven and eight in title II cases and steps six and seven in adult title XVI cases) mirror the final two steps used in the sequential evaluation process for initial claims (steps four and five).[18]

Table 1: Overview of the Sequential Evaluation Process for Initial Adult Disability Claims



Definition of PRW and the Relevant Work Period

Our current rules define PRW as work an individual has done within the past 15 years, that was SGA, and that lasted long enough for the individual to learn how to do it.[19] In initial claims, the relevant work period usually begins 15 years prior to the date of our determination or decision. However, in certain situations in claims under title II of the Act, the relevant work period begins on an earlier date.[20] For example, when an individual's insured status for title II disability benefits expired before the adjudication date, we consider the relevant work period to begin 15 years

[17] 20 CFR 404.1520(a)(5), 404.1594, 416.920(a)(5), and 416.994.

[18] 20 CFR 404.1594(f)(7)–(8) and 416.994(b)(5)(vi)–(vii). Title II benefits include disability insurance benefits, disabled widow(er) benefits, and child disability benefits. Title XVI benefits include supplemental security income.

[19] 20 CFR 404.1560(b)(1) and 416.960(b)(1). See also SSR 82–62: Titles II and XVI: A Disability Claimant's Capacity to Do Past Relevant Work, in General, in which we state that the work lasted long enough for the individual to learn the job if they learned the techniques, acquired information, and developed the facility needed for average performance of the job. The length of time this would take depends on the nature and complexity of the work.

[20] See SSR 82–62: Titles II and XVI: A Disability Claimant's Capacity to Do Past Relevant Work, in General. See also POMS DI 25001.001A.64 Medical and Vocational Quick Reference Guide, available at: *https://secure.ssa.gov/poms.NSF/lnx/0425001001.*

before the date last insured.[21] As noted below in our discussion of medical-vocational profiles, if we consider all of an individual's work to be arduous and unskilled, and the individual has little education, we may ask the individual to tell us about all of their work from the time the individual first began working.[22]

In CDRs, the relevant work period includes work an individual has done within 15 years prior to the date of the CDR determination or decision.[23] Individuals must report employment changes since the initial decision or most recent CDR.

Step Five of the Sequential Evaluation Process Considers Work Experience From PRW

At step five of the sequential evaluation process, we determine whether other work exists in significant numbers in the national economy that an individual can adjust to considering the individual's RFC and vocational factors of age, education, and work experience.[24] Work experience means skills and abilities an individual has acquired through their PRW which may show the type of work they may be expected to do.[25] Our rules categorize work experience as follows: none, unskilled, semi-skilled, or skilled.[26]

Our rules recognize that individuals with skilled or semi-skilled work experience may have a vocational advantage if their skills are transferable, meaning they can be used in other work.[27] Transferability of skills depends largely on the similarity of occupationally significant work activities among different work.[28] The transferability of skills is most probable and meaningful among jobs in which the same or a lesser degree of skill is required; the same or similar tools and machines are used; and the same or similar raw materials, products, processes, or services are involved.[29] If skills are so specialized or are acquired in such an isolated vocational setting that they are not readily usable in other industries, jobs, and work settings, they are not transferable.[30] If an individual is age 55 or older and limited to sedentary work, or age 60 or older and limited to light work, we consider skills transferable only if they can be used in other work with very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry.[31]

If the individual can adjust to other work that exists in significant numbers in the national economy, considering their residual functional capacity, age, education, and work experience, we find they are not disabled. If an individual cannot adjust to other work that exists in significant numbers in the national economy, we find that they are disabled.[32]

To support a determination or decision at step five of the sequential evaluation process, we must evaluate whether there is other work existing in significant numbers in the national economy that the individual can do given their RFC and vocational factors.[33] As part of this evaluation, we use the medical-vocational profiles and the medical-vocational guidelines, also commonly known as the ''grid rules.'' [34] We use three assessments to determine whether an individual can perform work that exists in significant numbers at step five of the sequential evaluation process (or at the final step in the sequential evaluation process used in CDRs):

1. Medical-vocational profiles;
2. Medical-vocational guidelines to direct a decision; and
3. Medical-vocational guidelines as a framework.

Medical-Vocational Profiles

We consider whether the individual's RFC and vocational factors of age, education, and work experience match the criteria of a medical-vocational profile. Each medical-vocational profile shows an inability to make an adjustment to other work.[35] If an individual's medical and vocational factors match the criteria of a medical-vocational profile, we find the individual disabled.[36] If not, we consider the medical-vocational guidelines in our disability finding.[37]

The three medical-vocational profiles are:

1. If an individual has done only arduous unskilled physical labor.[38] This profile applies to an individual who has no more than a marginal education (6th grade or less), has work experience of 35 years or more during which the individual did only arduous unskilled physical labor, is not working, and is no longer able to do this kind of work because of a severe impairment(s). We call this the *arduous unskilled work* profile and this profile considers 35 years of past work. Our proposed changes to the definition of PRW will neither change this profile nor affect the proportion of individuals found disabled through this profile.

2. If an individual is at least 55 years old, has no more than a limited education, and has no past relevant work experience.[39] This profile applies to an individual who has a severe MDI(s), is at least 55 years old, has no more than a limited education (11th grade or less), and has no PRW experience. We call this the *no work* profile and this profile considers 15 years of past work. As discussed below, our proposed changes to the definition of PRW will increase the proportion of individuals found disabled through this profile.[40]

3. If an individual has made a lifetime commitment.[41] This profile applies to an individual who is not working at SGA level, is at least 60 years old, has no more than a limited education (11th grade or less), and has a lifetime commitment (30 years or more) to a field of work that is unskilled, or is skilled or semi-skilled but with no transferable skills, that the individual can no longer perform because of a severe impairment(s). We call this the

[21] See POMS DI 25001.001A.64 Medical and Vocational Quick Reference Guide, available at: *https://secure.ssa.gov/poms.NSF/lnx/0425001001.*

[22] 20 CFR 404.1565 and 416.965.

[23] 20 CFR 404.1594(f)(7) and 416.994(b)(5)(vi). At the last two steps in the CDR sequential evaluation process, we do not consider work an individual does while receiving disability benefits to be past relevant work or past work experience; see 20 CFR 404.1594(i)(1) and 416.994(b)(8)(i).

[24] 20 CFR 404.1520(a)(4)(v) and (g), 404.1512(b)(3), 404.1560(c), 416.920(a)(4)(v) and (g), 416.912(b)(3), and 416.960(c).

[25] 20 CFR 404.1565 and 416.965.

[26] 20 CFR 404.1568 and 416.968. We consider occupations with specifical vocational preparation (SVP) levels one and two to be unskilled. Occupations with SVPs of three and four are semi-skilled, and occupations with an SVP of five or greater are skilled. See also DOT Appendix C available at: *https://www.occupationalinfo.org/appendxc_1.html#II* and POMS DI 25015.015.B.1 Work Experience as a Vocational Factor, available at: *https://secure.ssa.gov/apps10/poms.nsf/lnx/0425015015.*

[27] 20 CFR 404.1568(d) and 416.968(d).

[28] *Id.* See also SSR 82–41 Title II and XVI: Work Skills and Their Transferability as Intended by the Expanded Occupational Regulations Effective February 26, 1979.

[29] See 20 CFR 404.1568(d)(2) and 416.968(d)(2).

[30] See 20 CFR 404.1568(d)(3) and 416.968(d)(3).

[31] See 20 CFR 404.1568(d)(4) and 416.968(d)(4).

[32] 20 CFR 404.1520(a)(4)(v) and 416.920(a)(4)(v).

[33] 20 CFR 404.1560(c)(2) and 416.960(c)(2).

[34] See 20 CFR 404.1560(c), 404.1562, 404.1569, 416.960(c), 416.962, and 416.969.

[35] See 20 CFR 404.1520(g)(2) and 416.920(g)(2).

[36] See 20 CFR 404.1562 and 416.962.

[37] 20 CFR 404.1569 and 416.969.

[38] 20 CFR 404.1562(a) and 416.962(a). See also SSR 82–63: Titles II and XVI: Medical-Vocational Profiles Showing an Inability to Make an Adjustment to Other Work. When we say ''not working,'' we mean not engaging in substantial gainful activity.

[39] 20 CFR 404.1562(b) and 416.962(b). See also SSR 82–63: Titles II and XVI: Medical-Vocational Profiles Showing an Inability to Make an Adjustment to Other Work.

[40] 20 CFR 404.1560(b)(1) and 416.960(b)(1).

[41] See POMS DI 25010.001B.3 medical-vocational profiles, available at: *https://secure.ssa.gov/poms.NSF/lnx/0425010001.*

lifetime commitment profile and this profile considers 30 years of past work. Our proposed changes to the definition of PRW will neither change this profile nor affect the proportion of individuals found disabled through this profile.

TABLE 2—MEDICAL VOCATIONAL PROFILES

Medical-vocational profiles	Age	Education (no more than)	Past work experience	Is this profile affected under the proposed rule?
Arduous unskilled work profile.	No minimum age	Marginal (typically 6th grade or less).	35 years or more in which the individual performs only arduous unskilled physical labor.	No.
No work profile	55 years or older	Limited (typically 11th grade or less).	No PRW	Yes, under the proposed rules the relevant work period would be reduced from 15 to 5 years.
Lifetime Commitment profile.	60 years or older	Limited (typically 11th grade or less).	30 years or more to a field of work that is unskilled (or if skilled or semi-skilled with no transferrable skills).	No.

Medical-Vocational Guidelines To Direct a Decision

If an individual's RFC and vocational factors do not match a medical-vocational profile, we consider the medical-vocational guidelines.[42] The medical-vocational guidelines reflect the analysis of vocational factors in combination with RFC. Where the findings of fact made with respect to vocational factors and RFC coincide with all of the criteria of a particular medical-vocational rule that rule directs a decision as to whether the individual is disabled or not disabled.[43] When the medical-vocational guidelines are used to direct a decision, there are some circumstances where the existence or non-existence of transferable skills acquired from PRW is material to the decision.[44]

Medical-Vocational Guidelines as a Framework

We use the medical-vocational guidelines as a framework to guide our decision-making when one or more of the findings of fact do not coincide with all of the corresponding criteria of a rule.[45] Because the medical-vocational guidelines only consider exertional limitations, we also use them as a framework when an individual's RFC includes only nonexertional limitations.[46] In addition, we use them as a framework when an individual's RFC includes both exertional and nonexertional limitations and the applicable medical-vocational rule, considering only the exertional limitations, will direct a decision of ''not disabled.'' [47]

When the medical-vocational guidelines are used as a framework, there are some circumstances where the existence or non-existence of transferable skills acquired from PRW is material to the decision.[48]

Information We Request and Consider at Steps Four and Five of the Sequential Evaluation Process

We ask individuals about their past work when we need the information to make a determination or decision on their claim.[49] In most circumstances during the initial application, individuals will be asked to complete the Adult Disability Report (form SSA–3368), which includes a section on job history.[50] On this form, individuals are asked to complete work history information for up to 5 jobs they held in the last 15 years before they became unable to work. The information requested includes the job title and type of business; the dates when work began and ended; and hours per day, days per week, and rate of pay.[51] If an individual only had one job in the last 15 years, they provide additional detail about that job (these additional details are the same as those collected on the SSA–3369 discussed below).

If the individual identifies more than one job in the past 15 years on their Adult Disability Report, and we need additional information about their work history, we will then re-contact the individual to ask that they complete a separate Work History Report (form SSA–3369).[52] SSA processes roughly 1.6 million Work History Reports annually, which represents approximately 85 percent of all adult initial claimants.

The individual has the burden of proof to show that they cannot perform PRW, and they are required to provide information about their PRW if we request it.[53] In some cases, we may request work history information from an employer or a third party.[54] For each job held (regardless of how long the job was held for), we request information regarding: the dates worked, rate of pay, hours per day and week; a description

[42] See 20 CFR part 404 Subpart P Appendix 2, 20 CFR 404.1569 and 416.969.

[43] 20 CFR part 404 Subpart P Appendix 2 rule 200.00(a).

[44] For example, rule 201.03 directs a decision of not disabled for an individual with a certain specified RFC and vocational factors who has transferable skills, while rule 201.02 directs a decision of disabled for an otherwise similar individual who does not have transferable skills.

[45] *Id.*

[46] 20 CFR 404.1569a(c)(2) and 416.969a(c)(2).

[47] 20 CFR 404.1569a(d) and 416.969a(d).

[48] For example, rule 201.03 directs a decision of not disabled for an individual with a certain specified RFC and vocational factors who has transferable skills, while rule 201.02 directs a decision of disabled for an otherwise similar individual who does not have transferable skills.

[49] 20 CFR 404.1565(b) and 416.965(b).

[50] Available at: *https://www.ssa.gov/forms/ssa-3368.pdf.* The initial application also collects basic information about a claimant's work. For example, the form SSA–16 (Application for Disability Insurance Benefits) prompts respondents to identify: the name and address of any employers the applicant has worked for in the current or past year; the length of employment with each employer; whether the respondent was self-employed; the total earned income from the current and past year. The form SSA–8000 (Application for Supplemental Security Income) prompts respondents to identify: the name and address of employers who have provided wages on or after the filing date of the application; the date last worked, last paid, and next paid; the total monthly wages; the name and address of any additional employers the respondent anticipates working for in the next 14 months; whether the respondent was self-employed; and this year's, last year's, and next year's expected self-employment income. The information collected on the initial application would not be changed as a result of this proposal.

[51] See 20 CFR 404.1565(b) and 416.965(b).

[52] Available at: *https://www.ssa.gov/forms/ssa-3369.pdf.*

[53] 20 CFR 404.1512(a)(1)(iv), 404.1560(b)(2), 404.1565(b), 416.912(a)(1)(iv), 416.960(b)(2), and 416.965(b).

[54] 20 CFR 404.1565(b) and 416.965(b).

of the job including all of the duties performed; and any tools, machinery, and equipment used.[55] We also request information about the amount of walking, standing, sitting, lifting, and carrying during work each day and to recall, for each job, both the most weight ever lifted as well as the heaviest amount of weight that was frequently lifted. Individuals must also answer other questions about other physical or mental demands of the work.[56]

Proposed Change

We propose to reduce the PRW period from the current 15 years to 5 years. In many cases, this revision will reduce the number of jobs in an individual's work history that we will consider at step four of the sequential evaluation process when we determine whether an individual can perform their PRW. At step five, this revision will also change the previous work experience that we will consider under the medical-vocational guidelines. Because a step four finding can result in a denial but not an allowance (in FY 2022, 5.8 percent of decisions for adult claimants were denials at step four), we anticipate that we will make proportionally fewer denial decisions at step four and proportionally more decisions at step five. Because step five decisions require us to also consider work in the national economy an individual can perform based on their RFC and vocational factors, we expect that shifting decisions from step four to step five with less past work considered will result in more allowance decisions. We propose to make this revision in 20 CFR 404.1560, 404.1565, 416.960, and 416.965.

We also propose to remove a current sentence in 20 CFR 404.1565(a) and 416.965(a) that explains the intent of our work experience rules is to ''ensure that remote work experience is not currently applied.'' We propose to remove this sentence to reflect that the arduous unskilled work profile and the lifetime commitment profile consider work history for a period longer than the proposed five year relevant work period.

Justification for Change

We have long recognized that a gradual change occurs in most jobs in the national economy, so that after a certain period of time it is not realistic to expect that skills and abilities acquired in these jobs continue to apply.[57] In this rule, we propose a period of 5 years because it reflects the shorter collection cycles of occupational surveys and data programs, which establish a frame of reference for understanding changing occupational requirements.

Changing the PRW period from the current 15 years to 5 years will better account for the diminishing relevance of work skills over time and reduce the burden on individuals applying for disability. This change will allow us to improve the quality of the information we receive by eliminating the individual's need to recall and consistently report detailed information about less recent work, reduce the time spent filling out work history forms, and overall reduce waiting times. Accordingly, this proposed change will improve customer service and adjudicative efficiency.

1. The Proposal Will Allow Individuals To Focus on the Most Current and Relevant Information About Their Past Work

We largely rely on individuals' self-reporting for information about past work,[58] and self-reported information is often incomplete. Our adjudicative experience shows that individuals' self-reported work information tends to be less accurate and complete for jobs that were held in the more distant past. In many cases, individuals do not have accurate or complete recall of each job they have performed during the past 15 years, including detailed physical and mental requirements, hours worked, and rates of pay. For example, under our current process, if an individual served as a fast-food cook for 3 months 13 years ago, we ask them to tell us details such as the number of hours spent walking, standing, sitting, and carrying during the workday as well as both the most amount of weight they ever lifted while on the job and the heaviest weight frequently lifted.

In particular, individuals who struggle to maintain sustained employment, such as those who change jobs frequently or who have gaps in their work histories, may have difficulty remembering their past jobs and specific details. As a result, individuals completing work history questions on our forms, even with assistance, often leave many sections blank or incomplete. We estimate that about 30 percent of disability applications with 15 years of work history include sufficient detail at the time of application. Often DDS examiners request additional information before they can make a determination.[59] Ultimately, if an individual does not give us the evidence we need or request, our regulations provide that we will have to make a determination or decision based on the available evidence.[60] Because the individual must identify the functional requirements of jobs they held, a lack of information regarding functional requirements may impede our ability to determine if an individual can do PRW. This proposal will reduce the likelihood of our not having a complete work history.[61]

Relatedly, on May 16, 2023, in support of the White House Legal Aid Interagency Roundtable led by the Department of Justice, we met with a diverse panel of legal aid groups, community advocacy organizations, and other claimant representative organizations to discuss multiple Social Security issues of concern to them.[62] During our listening session, participants specifically referenced their experience that their clients had difficulty remembering older work information and reporting it accurately. Multiple participants particularly noted that the claimants tire of the work history questions and do not provide the detailed, accurate information that is critical for making decisions. One participant in the listening session noted that ''for our client base, there is just not enough memory to go back and remember all the things they did, what different jobs they had and when they had them . . . . [F]or a lot of my client base, the forms, they just get tired of

[55] *Id.*

[56] *Id.*

[57] 20 CFR 404.1565(a) and 416.965(a); SSR 82–62 Titles II and XVI: A Disability Claimant's Capacity to Do Past Relevant Work, in General.

[58] 20 CFR 404.1565(b) and 416.965(b). See also POMS DI 22515.001 Overview of Vocational Evidence Development, available at: *https://secure.ssa.gov/apps10/poms.nsf/lnx/0422515001.*

[59] In POMS DI 22505.014, we direct the DDS to allow a minimum of 10 calendar days for response to initial outreach, and we direct DDS to make a follow up once by telephone or letter and allow a minimum of 10 additional calendar days to respond. We also provide time to account for the mailing process. For claimants requiring special handling, DDS must make a reasonable effort to identify and involve a third party. See *https://secure.ssa.gov/apps10/poms.nsf/lnx/0422505014.*

[60] 20 CFR 404.1516, 404.1520b(b)(3), 416.916, and 416.920b(b)(3).

[61] In FY 2022, 18% of Adult Initial claims were closed as insufficient evidence, which includes missing information on the SSA–3369 or other missing work history information, but also includes claims that were closed for missing information unrelated to work history.

[62] Attendees included representatives from Legal Aid Foundation of Los Angeles, Urban Justice Center, Tennessee Alliance for Legal Services, Vermont Legal Aid, Legal Aid of Arkansas, New Hampshire Legal Assistance, Disability Law Center (Massachusetts), Coast to Coast Legal Aid (South Florida), Community Legal Services of Philadelphia, Legal Counsel for Health Justice, The Arc, National Association for Disability Representatives, Advocacy and Training Center, Inner City Law Center, New York Legal Assistance Group, Dallas Aging and Disability Resource Center, and Bay Area Legal Aid. An excerpt of the relevant portion of the listening session will be available upon request.

them. They're overwhelmed by them. They end up filling out something sort-of not very thoroughly and not very thoughtfully.'' A separate participant noted that claimants often forget the physical and mental requirements of jobs, and are more likely to underestimate them than overestimate them. Another participant provided an example of a job that required a claimant to lift a box of copy paper that weighed 25 pounds. They said that claimants might not know the weight of an item like that and might inadvertently report that they had to lift 10 pounds. As a result, participants noted that work history information is often incomplete or inaccurate.

In addition, we conducted an Adult Disability Applicant Survey that concluded in June 2023, and we received feedback from more than 15,000 recent disability applicants about their experience with the disability application process.[63] Within the survey, we asked questions about completing form SSA–3369–BK (Work History Report) and work history reporting generally. Many respondents expressed difficulties remembering and accurately reporting details about 15 years' worth of work history. Some respondents said they did not maintain records for that long and were unable to accurately report this information, while other respondents said the request for 15 years' worth of information took a long time to complete, particularly for individuals who may be dealing with major life transitions or have more severe impairments.

Taken together, by considering only more recent job information, which individuals are likely to recall in greater depth, we will improve the quality of evidence on which our adjudicators base their decisions.

2. The Proposal Will Reflect the Current Evidence Base on Changes Over Time in Worker Skill Decay and Job Responsibilities

We propose to revise the definition of the relevant work period to more accurately reflect how an individual's acquired skills and knowledge may become less relevant over time after they have stopped performing previous work. When we defined past work in our regulations in 1978, we concluded that 15 years was an appropriate guide.[64] Research indicates that skills not used over extended periods become less recoverable when later called upon, meaning they provide less vocational advantage. Most of the major surveys and data programs concerning occupational requirements conducted in recent decades have refreshed their data in collection cycles ranging from 5 to 10 years.[65] We understand that the rate of skills decay and changes in work requirements have a considerable impact on the workforce. A 2016 BLS report explains that changes in job skill requirements ''are a function of shifts in skill requirements within occupations as well as changes in employment shares between occupations.'' [66] The report acknowledges that any conclusions based on measurements of these two aspects of job change will be inexact as the data continue to accrue, and it goes on to point out that questions remain regarding ''the magnitudes of within occupation changes along various dimensions, such as physical demands . . . or specific cognitive skills.'' Nevertheless, the report's author validated the use of data collection cycles between five and ten years as a reasonable timeframe for measuring and documenting changing occupational requirements. Accordingly, we also propose that a past relevant work period of five years is reasonable.

Two additional markers that illustrate significant occupational change within a 5–10-year period are the frequency that the Standard Occupational Classification (SOC) system is updated (*i.e.,* 2000, 2010, and 2018) and various state re-licensing, re-certification, and continuing education requirements (typically once every 1 to 5 years, depending on the profession).[67] The SOC system is updated to reflect changes in the economy and the nature of work,[68] and the frequency at SOC system is updated balances the need for an up-to-date taxonomy against the ability to track occupational changes over time and the desire to minimize disruption to survey collection processes and data series.[69] Collectively, the research and evidence suggest that considering occupational change or skills decay warrants measuring or ensuring currency over a 5–10 year period.

Other research supports that unused manual work skills generally diminish in less than 10 years. Using data from the Occupational Information Network (O*NET),[70] combined with a worker-level panel, researchers in 2020 found that manual skills tend to erode quickly when not used, with an estimated loss of 50 percent over 7.5 years.[71] This 2020 study by Lise and Postel-Vinay also supports the premise that manual skills developed in jobs held longer than 10 years ago likely have diminished relevance and are unlikely to be well-retained by individuals. By contrast, jobs held no more than five years in the past provide a vocational advantage because the skills an individual learned are more current, and the occupation is less likely to have changed.

3. The Proposal Will Reduce Processing Time and Improve Customer Service

This revision will also help improve our customer service by reducing our time burden to develop detailed work history for jobs performed in the distant past that are less relevant for the reasons stated above. Overall, we will be able to make determinations and decisions more quickly, which also ultimately benefits the public we serve. The U.S. Supreme Court previously recognized the ''need for efficiency [in our adjudicative process] is self-evident'' and important given that our hearing system is ''probably the largest adjudicative agency in the western world'' because we adjudicate millions of claims for disability benefits each year.[72]

This proposal will reduce our burden associated with recontacting individuals or other sources to fully develop evidence in some claims. As stated above, we have found that individuals

[63] The Adult Disability Applicant Survey is qualitative in nature, as it is rooted in applicants' perceptions and memory of the application process. However, the use of a qualitative survey is consistent with Executive Order 14058, which defines ''customer experience'' as the public's perceptions of and overall satisfaction with interactions with an agency, product, or service.

[64] Handel, Michael J., *Dynamics of Occupational Change: Implications for the Occupational Requirements Survey,* July 15, 2016 (Table 23), available at: *https://www.bls.gov/ors/research/sample-design/pdf/dynamics-occupational-change-2016.pdf.*

[65] *Id.*

[66] *Id.*

[67] The SOC is a Federal statistical standard used by Federal agencies to classify workers into occupational categories for the purpose of collecting, calculating, or disseminating data.

[68] Revising the Standard Occupational Classification, available at: *https://www.bls.gov/soc/revising_the_standard_occupational_classification_2018.pdf.*

[69] See Monthly Labor Review: Revising the Standard Occupational Classification system for 2010, available at: *https://www.bls.gov/opub/mlr/2010/08/art3full.pdf.*

[70] The Occupational Information Network (O*NET) is sponsored by the U.S. Department of Labor. O*NET provides descriptive information about occupations and helps people find the training and jobs they need, and employers the skilled workers necessary to be competitive in the marketplace. For more information, see: *https://www.onetonline.org.*

[71] Lise, J., & Postel-Vinay, F. (2020). Multidimensional Skills, Sorting, and Human Capital Accumulation. The American Economic Review, 110(8), 2328–2376, available at: *https://www.jstor.org/stable/26966333.*

[72] *Heckler* v. *Campbell,* 461 U.S. 458, 461, n.2 (1983).

have difficulty providing accurate and complete information about work they have not done in many years. When an individual does not provide complete information about all of the jobs they held in the past 15 years, we try to recontact them to obtain the additional information.[73] Our efforts to develop more complete information about past work may also involve contacting third parties, such as former employers.[74] Our task of developing complete information about how a particular job was performed can be difficult and time consuming because individuals, past employers, and other third parties might not recall the details of nor have records for work performed many years in the past. This difficulty is further compounded when prior employers are no longer in existence or otherwise not available to provide evidence. Our efforts to help individuals obtain and provide complete evidence slow our adjudication of their claims. Accordingly, we anticipate this proposal will reduce individual wait times and our total pending claims.

4. The Proposal Will Reduce Burden on Individuals

This proposal will reduce the information collection burden on individuals by reducing, on average, the number of jobs about which they must provide us with information. This anticipated burden reduction is supported by additional information collected during the Adult Disability Applicant Survey. Respondents reported a wide range of completion times for the SSA–3369–BK. SSA currently reports an average time burden of 60 minutes. However, respondents indicated that based on their own experiences and memories, the time it takes to complete the entire process, including gathering the information and completing the form, can take anywhere from fewer than 60 minutes up to several hours, depending on an individual's work history. The median time burden reported was 2 hours for individuals who reported a work history that included work performed 6 years before the application and earlier, but 90 minutes for individuals who reported a work history that included only work performed 1 to 5 years prior to application.

These results suggest that even if individuals report different time burden associated with PRW, the data consistently show that a work history ending at the 5-year mark is notably less burdensome than a longer work history.

The table below indicates that a longer retrospective period generally includes more jobs than a shorter one. As the Adult Disability Applicant Survey suggests, fewer jobs to report may mean less burden on individuals. The following table, which is based on a sample of administrative data for research purposes, shows the median number of employers individuals of various ages have had in the previous 5, 10, and 15 years.[75]

MEDIAN NUMBER OF EMPLOYERS IN RETROSPECTIVE TIME PERIODS, BY AGE GROUP

Age group	Past 5 years	Past 10 years	Past 15 years
All (25–65)	2	3	5
25–29	4	7	7
30–34	3	5	10
35–39	2	4	8
40–44	2	4	7
45–49	2	3	6
50–54	2	3	5
55–59	1	2	4
60–65	1	2	3

Sources: 2019 Longitudinal Employee-Employer Data (LEED) 1 Percent File, Disability Research File (Title II and Title XVI), and Numident.
Note: N = 9,087 (includes individuals with missing or unknown sex in the data set).

The table shows that, for adults ages 25–65, use of a 5-year relevant work period will reduce the median number of past employers. Among adults in that age group, the median number of employers for the past 15 years is 5 and the median number for the past 5 years is 2. Therefore, reducing the relevant work period to 5 years will reduce the burden on individuals because many will need to report information about fewer employers.

We use different forms to collect work history information necessary for the type and level of adjudication of a claim. As the information below demonstrates, using a 5-year relevant work period will reduce the burden on individuals completing these forms.

At the time of application, individuals submit the SSA–3368 form (Disability Report—Adult) online, through the mail, or in-person at a field office, which we use to collect a wide range of information, including medical and vocational information needed to adjudicate adult disability claims.[76] The form SSA–3368 requires detailed work history information from the individual. It asks individuals to complete work history information for up to 5 jobs they held in the last 15 years before they became unable to work. The information requested includes the job title and type of business; the dates when work began and ended; and hours per day, days per week, and rate of pay.[77] If the individual only had one job in the last 15 years, they provide additional detail about that job, including information regarding what they did all day in that job, the machines or tools they used, the knowledge or technical skills they acquired, and the job's specific physical demands. The current time burden estimate for an individual to complete form SSA–3368 is 90 minutes, which includes reading the instructions, gathering facts, and answering the questions. We estimate that, with the changes we propose, filling out form

[73] 20 CFR 404.1565(b) and 416.965(b).

[74] *Id.*

[75] Sources: 2019 Longitudinal Employee-Employer Data (LEED) 1percent File, Disability Research File (Title II and Title XVI), and Numident; N = 9,087. The LEED is a sample of administrative data we use for research purposes. A unique employer is not necessarily the same as a unique job. Individuals may have worked in multiple jobs with the same employer over a number of years. For instance, an individual could have started working for an employer in a lower-skill job and later received a promotion to a higher-skill job. On the other hand, individuals may have worked in the same type of job for different employers. For example, an individual may have been a cashier in more than one grocery store chain.

[76] We collect information on the form SSA–3368 in several modalities. In addition to the standard paper form, which is available in English and Spanish languages, we also offer an internet-based modality. We collect this information for adult initial claims and age-18 redeterminations.

[77] See 20 CFR 404.1565(b) and 416.965(b).

SSA–3368 will reduce the time burden on an individual to complete the form to 80 minutes on average, as explained below.[78] The change to form SSA–3368 will result in an estimated burden savings of 376,419 hours for individuals.

Generally, the State Disability Determination Services (DDS) use form SSA–3369–BK to request detailed information from individuals regarding any jobs they have held during the 15-year period and for which they have not already provided detailed information on the form SSA–3368.[79] The DDSs typically sends this form to approximately 85 percent of adult initial claimants. The current time burden estimate for an individual to complete form SSA–3369 is 1 hour, which includes reading the instructions, gathering facts, and answering the questions about each job the individual has performed in the last 15 years. We estimate that, with the changes we propose, filling out form SSA–3369 will reduce the time burden on an individual to complete the form to 40 minutes on average, as explained below.[80] The change to form SSA–3369 will result in an estimated burden savings of 530,650 hours for individuals.

At the hearings level, adjudicators may collect any additional or changed work history using the form HA–4633 (Claimant's Work Background). The current time burden estimate for an individual to complete form HA–4633 is 30 minutes. We estimate that, with the changes we propose, filling out the form HA–4633 will reduce the time burden on an individual to complete the form to 20 minutes on average as explained below. The change to HA–4633 form will result in an estimated burden savings of 31,666 hours.

Overall, the total estimated burden savings on all three forms (SSA–3368, SSA–3369, and HA–4633) is estimated to be 938,735 hours.

Conclusion: Improving the Balance Between Information Utility and Burden Reduction

In developing this proposed rule, we sought to balance the need for accurate work history information for our disability determinations with the goals of obtaining only the most relevant information, reducing burden on individuals, and decreasing the overall disability determination time. Ultimately, we determined that work experience from jobs performed more than 5 years ago may not be as relevant as work experience from jobs performed 5 years ago or less. Also, based on our research, it is significantly less burdensome for individuals to report a job history of 5 years or less. Further, developing that job history would save time and increase efficiency for our personnel. Based on these factors (as outlined in greater detail above), we propose the 5-year period as the best balance between obtaining an accurate work history and ensuring optimal burden reduction and time savings.

How the Proposed Revisions Will Affect Our Decision Making at Step Four of the Sequential Evaluation Process

Revising the relevant work period from the current 15 years to 5 years will reduce the number of jobs in an individual's work history that we will consider at step four and at the corresponding step in the evaluation process used in CDRs when we determine whether an individual can perform their PRW. Because a step four finding can result in a denial but not an allowance, we anticipate that a smaller proportion of denial decisions will be made at step four and that a greater proportion of all our decisions will be made at step five.

Under the proposed rule, some claims that would have been a step four denial under the current rules would instead result in a step five allowance. For example: A 53-year-old individual applying for SSI has a high school education and an RFC consistent with unskilled sedentary work. The individual last performed sedentary, unskilled work as an order clerk 10 years ago. The work as an order clerk was SGA, and the individual did it long enough to learn to do the job at an average level. The individual has acquired no transferrable skills from other work. Under current rules, the individual would be found ''not disabled'' because they retain the RFC to perform their PRW as an order clerk. With a five-year PRW period, however, the individual would be found ''disabled'' because (1) the work as an order clerk would not have been performed recently enough to qualify as PRW, and (2) at step five, medical-vocational rule 201.12 directs a ''disabled'' finding for a person with the individual's RFC, age, education, and work history.

However, other claims that would have a step four denial under the current rules would still result in a step five denial under the proposed rules. For example: Assume the same facts as the previous example, except that the individual is 43 years old. Although the individual's work as an order clerk would not qualify as PRW under the rules we are proposing, the individual would still be found ''not disabled.'' While the individual would be found unable to perform their PRW, medical-vocational rule 201.27 would direct a denial at step five given the individual's RFC, age, education, and work history.

How the Proposed Revision Will Affect Decision Making at Step Five of the Sequential Evaluation Process

The proposed revision to reduce the relevant work period from 15 to 5 years will affect our decision making at the fifth step in the sequential evaluation process we use in initial claims and at the corresponding step in the evaluation process used in CDRs.

1. How the Change Will Affect Eligibility for the No Work Profile

Revising the relevant work period to five years will make it more likely that an individual will meet the no work profile.[81] The no work medical-vocational profile directs a finding of disabled for any individual 55 or older with no more than limited education, no PRW, and a severe impairment. Revising the relevant work period from 15 to 5 years will increase the applicability of the no work profile because any individual who had not worked during the relevant 5-year period will be deemed to have no PRW. This effect will increase at each level of the administrative review process because the relevant work period is measured from the date of adjudication, in most cases, and will shift as a case moves

[78] See the Paperwork Reduction Act section, below.

[79] We currently collect information on the form SSA–3369 using a paper form, which is available in English and Spanish languages. In certain instances, field offices collect information instead of the DDS. For more information, see POMS DI 11005.025 Completing the SSA–3369, available at: *https://secure.ssa.gov/apps10/poms.nsf/lnx/0411005025.*

[80] See the Paperwork Reduction Act section, below.

[81] Our Office of the Chief Actuary estimates that for old age, survivors, and disability insurance (OASDI) and SSI combined, about two percent of the total marginal increase in disability allowances attributable to the assumed implementation of this proposed rule would be additional claims allowed under the no work profile, with the majority of this effect on SSI adult disability awards. This translates to annual average increases of fewer than 50 OASDI disability awards per year and 400 SSI adult disability awards per year over fiscal years 2025 through 2033. Some of these additional awards under the no work profile could otherwise be allowed under other vocational rules. The proposed change will also likely result in more instances in which an individual's RFC and vocational factors align with a grid rule that directs a finding that the individual is disabled because of a lack of any PRW. This situation will occur if the individual's most recent work experience was 6–15 years prior to the determination or decision. For example, rule 203.03 directs a ''not disabled'' finding for an individual with PRW, while rule 203.02 directs an allowance for an otherwise similar individual with no PRW.

through administrative review.[82] As a result, work found to be PRW at earlier administrative levels may cease to qualify as PRW at later stages in the review process.

2. How the Change Will Affect Outcomes Based on Medical-Vocational Guidelines Using Transferable Skills

Revising the relevant work period to five years will make it more likely that individuals will lack transferable skills. Some of the rules under the medical-vocational guidelines direct different decisions depending on whether individuals have acquired transferable skills from their past work. Because work performed 6 to 15 years prior to our determination or decision will no longer qualify as past work, we will no longer consider skills acquired from such work to be transferable to other skilled or semi-skilled work.[83] Therefore, more claims will be decided based on rules that direct a finding that the individuals are disabled.[84]

Under the medical-vocational guidelines, the presence of transferable skills has a material effect on the outcomes of determinations and decisions for individuals age 50 or older in several instances.[85] Furthermore, because the relevant work period will shift as a case moves through the administrative review process,[86] work found to provide transferable skills at earlier administrative levels will often cease to qualify as PRW at later stages in the review process.

Effect on Current Subregulatory Guidance

If we adopt the proposed rule as a final rule, we will rescind several current Social Security Rulings (SSRs) because they will be inconsistent with the final rule. The list includes:

- *SSR 82–61:* Titles II and XVI: Past Relevant Work—The Particular Job or the Occupation as Generally Performed. We will rescind this SSR because we propose to revise how we consider past relevant work.
- *SSR 82–62:* Titles II and XVI: A Disability Claimant's Capacity to Do Past Relevant Work, In General. We will rescind this SSR because we propose to revise how we consider past relevant work.
- *SSR 82–63:* Titles II and XVI: Medical-Vocational Profiles Showing an Inability to Make an Adjustment to Other Work. We will rescind this SSR because we propose to revise how we consider past relevant work.
- *SSR 86–8:* Titles II and XVI: The Sequential Evaluation Process. We will rescind this SSR because we propose to revise how we consider past relevant work.

We plan to issue updated subregulatory guidance and will also provide training to our adjudicators.

Solicitation for Public Comment

We are seeking public comment on this proposed rule. Questions the public may wish to consider when evaluating this proposed rule:

- Is there data or other evidence supporting a relevant work period other than 5 years that could be used to inform this rulemaking?
- Do you have any additional information about whether we should revise the no work profile to maintain a 15-year period as it exists under our current rules?
- Do you have any additional information about whether we should end use of the medical-vocational profiles because they require collection and development of more than 5 years of work history?
- The current time burden estimate to complete form SSA–3369–BK (OMB No. 0960–0578) is 60 minutes for individuals. We are estimating (see Paperwork Reduction Act of this preamble) the revised form requiring only 5 years of work history will take 40 minutes for individuals to complete. Do you agree with this new estimate? Why or why not?
- Are there areas where we could further simplify this form or other aspects of the information collection process while still collecting all the information that is required to make an accurate disability determination?
- We currently ask individuals to list all jobs they have held during the relevant work period, regardless of the length of time the job was held. Should we consider revising this requirement so that respondents do not need to report jobs held for short periods of time (*e.g.,* one month)? If so, what threshold should we set and what evidence supports this threshold?

Rulemaking Analyses and Notices

We will consider all comments we receive on or before the close of business on the comment closing date indicated above. The comments will be available for examination in the rulemaking docket for these rules at the above address. We will file comments received after the comment closing date in the docket and may consider those comments to the extent practicable. However, we will not respond specifically to untimely comments. We may publish a final rule at any time after close of the comment period.

Clarity of This Rule

Executive Order 12866, as supplemented by Executive Orders 13563 and 14094, requires each agency to write all rules in plain language. In addition to your substantive comments on this proposed rule, we invite your comments on how to make the rule easier to understand. For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rule clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand, *e.g.,* grouping and order of sections, use of headings, or paragraphing?

When will we start to use this rule?

We will not use this rule unless we publish a final rule in the **Federal Register** after evaluating the public comments. All final rules we issue include an effective date. We will continue to use our current rules until that date. If we publish a final rule, we will include a summary of those relevant comments we received along with responses and an explanation of how we will apply the new rule. If we adopt the proposed rule as a final rule, we will begin to use it in all claims awaiting a final determination or decision as of the effective date of the final rules.

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Orders 13563 and 14094

We consulted with the Office of Management and Budget (OMB) and

[82] For more information, see section *Definition of PRW and the Relevant Work Period,* above.

[83] See 20 CFR 404.1568 and 416.968.

[84] Our Office of the Chief Actuary estimates that for OASDI and SSI combined, about 30 percent of the total marginal increase in disability allowances attributable to the assumed implementation of this proposed rule would be allowed due to additional awards for individuals no longer being assessed to have transferable skills, whereas they would have such skills under our current rule. This translates to an average of about 7,500 additional OASDI disability awards and 2,500 additional SSI adult disability awards per year over fiscal years 2025 through 2033.

[85] For example, rule 201.03 directs a decision of not disabled for an individual with a certain specified RFC and vocational factors who has transferable skills, while rule 201.02 directs a decision of disabled for an otherwise similar individual who does not have transferable skills.

[86] For more information, see section *Definition of PRW and the Relevant Work Period,* above.

determined that this rule is significant under Section 3(f)(1) of Executive Order 12866, as supplemented by Executive Orders 13563 and 14094. Therefore, OMB reviewed it.

Anticipated Transfers to Our Program

The Office of the Chief Actuary (OCACT) estimates that implementation of this proposed rule would result in an increase in scheduled SSDI benefits of $22.9 billion, a net reduction in scheduled old-age and survivors insurance (OASI) benefits of $6.5 billion, and an increase in Federal SSI payments of $3.9 billion in total over fiscal years 2024 through 2033, assuming implementation for all decisions made on or after May 6, 2024. OCACT estimates that this rule would primarily affect individuals ages 50 and older. These estimates assume that because more people will be receiving SSDI until they reach full retirement age, fewer people will be receiving OASI; this does not reflect any change to OASI eligibility.

To develop this estimate, we conducted a case study of 1,024 disability determinations to determine the effect on determinations at the DDS and hearings before administrative law judges (ALJ). Using a stratified random sample of final denial decisions in FY 2016 and appropriate available medical evidence, case reviewers evaluated the effects on the medical determination of reducing the relevant work period from 15 to 5 years. The sample included determinations of both initial applications and CDRs for OASDI and SSI adults at the DDS and ALJ hearings level. The sample also included both current rule step four and step five denials.

OCACT's analysis of the study results indicates that for denials at step four that are occurring under current rules, roughly 50 percent would no longer be denied under the proposed rule and thus would require a determination at step five. The study further indicates that about one-third of these cases would be allowed at step five, so that overall, about 17 percent of current step four denials would be allowed at step five. For denials at step five under current rules, the study indicates that the effects would be much smaller. The study found that about four percent of the step five denial decisions studied would change to an allowance. This is not equivalent to a four percent decrease in step five denials overall, because the sub-sample of step five denials in this study was stratified to include only the select group of step five denials that would potentially be affected by the proposed change in the relevant work period.

Using the case study results, OCACT estimates that on average over the next 10 years, the proposed rule will increase the number of disability awards per year by about 21,000 for OASDI and 10,000 for SSI. Of these changes, for OASDI, OCACT estimates roughly:

- 13,500 new allowances for individuals who would be denied at step four under current rules but under the proposed rules would be determined eligible under the vocational rules at step five;
- 7,500 new allowances for individuals who would be denied at step five under current rules because of transferrable skills from PRW who are determined eligible due to no longer being assessed to have transferable skills; and
- Less than 50 new allowances who would now be eligible under the ''no work'' profile.

For SSI, OCACT estimates roughly:

- 7,100 new allowances would be denied at step four under current rules but would be determined eligible under the vocational rules at step five;
- 2,500 new allowances for individuals who would be denied at step five under current rules because of transferrable skills from PRW who would be determined eligible due to no longer being assessed to have transferrable skills; and
- 400 new allowances under the ''no work'' profile.

Combining the impacts to OASDI and SSI, approximately two-thirds of the increase in awards is due to new allowances under the vocational rules at step five, 30 percent is due to individuals who would be allowed due to no longer being assessed to have transferable skills, and two percent is due to individuals who would now be eligible under the ''no work'' profile.

Anticipated Net Administrative Savings to the Social Security Administration

The Office of Budget, Finance, and Management estimates that this proposal will result in net administrative savings of $1.05 billion for the 10-year period from FY 2024 to FY 2033. The administrative savings are primarily driven by time savings from evaluating work over a shorter period for initial claims, reconsideration requests, and hearings processed in our field offices, State disability determination services, and hearings offices. In addition, due to a shorter PRW period, we expect fewer disability re-applications, reconsiderations, and hearings requests over the 10-year period, leading to sizeable administrative savings. Savings are offset by administrative costs stemming from systems updates and training costs upon implementation, and post-eligibility actions for additional beneficiaries and non-disabled dependents thereafter.

Anticipated Time-Savings and Other Qualitative Benefits to the Public

The proposed change will reduce the obstacles that individuals with significant physical or mental impairments face in their efforts to obtain the crucial benefits our disability programs provide. Our experience indicates that individuals often find it difficult to gather and provide accurate information about their work histories, and that those difficulties tend to increase when they are asked to provide detailed information about work performed in the more distant past. Reducing individuals' need to gather and report information about work performed beyond the proposed 5-year relevant period will increase the likelihood we will have a complete and accurate work history report. We estimate at a minimum this will result in at least 938,735 hours of time savings in direct paperwork burden experienced by claimants as well as additional time-savings associated with the overall process of completing the relevant forms. As discussed in the *Paperwork Reduction Act* section below, we estimate the opportunity costs of this time-savings to be at least $59,733,733 annually.

The proposed change may also prevent the denial of benefits in certain situations in which, under our current rules, an individual might be found ''not disabled'' because of relatively distant work experience.

Anticipated Costs to the Public

As discussed in the preamble, our process for determining if an individual is disabled includes evaluating whether or not the individual, given their RFC, can perform any of their past relevant work. If an individual can perform their past work, then we will determine they are not disabled. By limiting the review of past relevant work to the previous 5 years, there are likely, on the margins, individuals who held jobs longer than 5 years in the past who may still be able to perform those jobs today. Those individuals would be found not disabled under our current rules. Under the proposed rules, these individuals may be allowed. A subset of these individuals who would have been denied under the current rules would have worked in the absence of benefits. This reduction in labor force

participation imposes some social costs on the public.

Previous research has found that, among claimants on the margin, an additional 16 to 17 percent would have worked above SGA in the absence of benefits three years later.[87] Although this margin is different than the one that would be invoked by the proposed change in rules, it provides a useful reference point.. One study found that 35 percent of those denied at step four (and above age 50) worked above SGA in at least one of the five years after the decision.[88] Further, the study found that 17 percent of this group had any earnings in the second year after the decision.[89] Therefore, the evidence indicates that there will be some instances of newly-allowed beneficiaries who would have worked—some of them above SGA—if they had been denied on the basis of the ability to do past work. This is also consistent with OCACT's preliminary estimate that the increase in the number of individuals who would be receiving disability benefits would reduce OASDI payroll tax revenue over the next 10 years by a total between $200 million and $300 million.

Executive Order 13132 (Federalism)

We analyzed this proposed rule in accordance with the principles and criteria established by Executive Order 13132 and determined that the proposed rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment. We also determined that this proposed rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State government functions.

Regulatory Flexibility Act

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

SSA already has existing OMB PRA-approved information collection tools relating to this proposed rule: Claimant's Work Background (HA–4633, OMB No. 0960–0300); Work History Report SSA–3368, OMB No. 0960–0578); and Disability Report—Adult (SSA–3368, OMB No. 0960–0579). The proposed rule, once implemented in final, provides for a shorter work history requirement than we previously required; therefore, we expect the rule will significantly reduce public reporting burdens associated with these forms. The sections below report our current public reporting burdens for these existing OMB-approved forms, and project the anticipated burden reduction and new burden figures after implementation at the final rule stage. We will obtain OMB approval for the revisions to the collection instruments simultaneously with the publication of the final rule.

The following chart shows the time burden information associated with the proposed rule:

OMB No.; Form No.; CFR citations	Number of respondents	Frequency of response	Current average burden per response (minutes)	Current estimated total burden (hours)	Anticipated new burden per response under regulation (minutes)	Anticipated estimated total burden under regulation (hours)	Estimated burden savings
0960–0300, HA–4633, (Paper Form) 410.1560; 416.960	32,300	1	30	16,150	20	10,767	5,383
0960–0300, HA–4633, (ERE) 410.1560; 416.960	157,700	1	30	78,850	20	52,567	26,283
0960–0578, SSA–3369, (Paper Form) 410.1560; 416.960	1,553,900	1	60	1,553,900	40	1,035,933	517,967
0960–0578, SSA–3369, (EDCS Screens) 410.1560; 416.960	38,049	1	60	38,049	40	25,366	12,683
0960–0579, SSA–3368, (Paper Form) 410.1560; 416.960	6,045	1	90	9,068	80	8,060	1,008
0960–0579, SSA–3368, (EDCS Screens) 410.1560; 416.960	1,263,104	1	90	1,894,656	80	1,684,139	210,517
0960–0579, i3368, (Internet Screens) 410.1560; 416.960	989,361	1	90	1,484,042	80	1,319,148	164,894
Totals	4,040,459			5,074,715		4,135,980	938,735

The following chart shows the theoretical cost burdens associated with the proposed rule:

OMB No.; Form No.; CFR citations	Number of respondents	Anticipated estimated total burden under regulation from chart Above (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
0960–0300, HA–4633, (Paper Form) 410.1560; 416.960	32,300	10,767	*$12.81		***137,925

[87] Maestas, Nicole, Kathleen J. Mullen, and Alexander Strand. 2013. ''Does Disability Insurance Receipt Discourage Work? Using Examiner Assignment to Estimate Causal Effects of SSDI Receipt.'' *American Economic Review,* 103 (5): 1797–1829.

French, Eric, and Jae Song. 2014. ''The Effect of Disability Insurance Receipt on Labor Supply.'' *American Economic Journal: Economic Policy* 6(2): 291–337

[88] Hyde, Jody Schimmel, April Yanyuan Wu and Lakhpreet Gill, 2018, The Benefit Receipt Patterns and Labor Market Experiences of Older Workers Who Were Denied SSDI on the Basis of Work Capacity, DRC Working Paper Number 2018–01. Available at *https://www.mathematica.org/publications/the-benefit-receipt-patterns-and-labor-market-experiences-of-older-workers-who-were-denied-ssdi.* See page 24. Small sample sizes in the Health and Retirement Study preclude giving estimates for individual years.

[89] Ibid, see Table C1.

OMB No.; Form No.; CFR citations	Number of respondents	Anticipated estimated total burden under regulation from chart Above (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
0960–0300, HA–4633, (ERE) 410.1560; 416.960	157,700	52,567	*29.76		***1,564,394
0960–0578, SSA–3369, (Paper Form) 410.1560; 416.960	1,553,900	1,035,933	*12.81		***13,270,302
0960–0578, SSA–3369, (EDCS Screens) 410.1560; 416.960	38,049	25,366	*12.81	**21	***495,529
0960–0579, SSA–3368, (Paper Form) 410.1560; 416.960	6,045	8,060	*12.81	**21	***130,355
0960–0579, SSA–3368, (EDCS Screens) 410.1560; 416.960	1,263,104	1,684,139	*12.81	**21	***27,236,942
0960–0579, i3368, (Internet Screens) 410.1560; 416.960	989,361	1,319,148	*12.81		***16,898,286
Totals	4,040,459	4,135,980			***59,733,733

*We based this figure on the average SSDI payments based on SSA's current FY 2023 data (*https://www.ssa.gov/legislation/2023factsheet.pdf*); on the average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).

**We based this figure on the average FY 2023 wait times for field offices and hearings office, as well as by averaging both the average FY 2023 wait times for field offices and teleservice centers, based on SSA's current management information data.

***This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

SSA submitted a single new Information Collection Request which encompasses the revisions to all three information collections (currently under OMB Numbers 0960–0300, 0960–0578, and 0960–0579) to OMB for the approval of the changes due to the proposed rule. After approval at the final rule stage, we will adjust the figures associated with the current OMB numbers for these forms to reflect the new burden. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated techniques or other forms of information technology. If you would like to submit comments, please send them to the following locations:

Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*

Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

You can submit comments until November 28, 2023, which is 60 days after the publication of this notice. However, your comments will be most useful if you send them to SSA by November 28, 2023, which is 60 days after publication. To receive a copy of the OMB clearance package, contact the SSA Reports Clearance Officer using any of the above contact methods. We prefer to receive comments by email or fax.

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors, and Disability insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

The Acting Commissioner of Social Security, Kilolo Kijakazi, Ph.D., M.S.W., having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary **Federal Register** Liaison for SSA, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

For the reasons set out in the preamble, we propose to amend 20 CFR part 404, subpart P, and part 416, subpart I, as set out below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P—Determining Disability and Blindness

■ 1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a)–(b) and (d)–(h), 216(i), 221(a) and (h)–(j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)–(b) and (d)–(h), 416(i), 421(a) and (h)–(j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend § 404.1560 by revising paragraph (b)(1) to read as follows:

§ 404.1560 When we will consider your vocational background.

* * * * *

(b) * * *

(1) *Definition of past relevant work.* Past relevant work is work that you have done within the past five years that was substantial gainful activity and that lasted long enough for you to learn to do it. (See § 404.1565(a)).

* * * * *

■ 3. Revise § 404.1565 to read as follows:

§ 404.1565 Your work experience as a vocational factor.

(a) *General. Work experience* means skills and abilities you have acquired through work you have done which show the type of work you may be expected to do. Work you have already been able to do shows the kind of work that you may be expected to do. We consider that your work experience applies when it was done within the last five years, lasted long enough for you to learn to do it, and was substantial gainful activity. We do not usually consider that work you did more than five years before the time we are deciding whether you are disabled (or when the disability insured status requirement was last met, if earlier) applies. A gradual change occurs in most jobs so that after five years it is no longer realistic to expect that skills and abilities acquired in a job done then continue to apply. If you have no work experience or worked only ''off-and-on'' or for brief periods of time during the five-year period, we generally consider that these do not apply. If you have acquired skills through your past work, we consider you to have these work skills unless you cannot use them in other skilled or semi-skilled work that

you can now do. If you cannot use your skills in other skilled or semi-skilled work, we will consider your work background the same as unskilled. However, even if you have no work experience, we may consider that you are able to do unskilled work because it requires little or no judgment and can be learned in a short period of time.

(b) *Information about your work.* Under certain circumstances, we will ask you about the work you have done in the past. If you cannot give us all of the information we need, we may try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker. When we need to consider your work experience to decide whether you are able to do work that is different from what you have done in the past, we will ask you to tell us about all of the jobs you have had in the last five years. You must tell us the dates you worked, all of the duties you did, and any tools, machinery, and equipment you used. We will need to know about the amount of walking, standing, sitting, lifting and carrying you did during the workday, as well as any other physical or mental duties of your job. If all of your work in the past five years has been arduous and unskilled, and you have very little education, we will ask you to tell us about all of your work from the time you first began working. This information could help you to get disability benefits.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—Determining Disability and Blindness

■ 4. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

■ 5. Amend § 416.960 by revising paragraph (b)(1) to read as follows:

§ 416.960 When we will consider your vocational background.

* * * * *

(b) * * *

(1) *Definition of past relevant work.* Past relevant work is work that you have done within the past five years that was substantial gainful activity and that lasted long enough for you to learn to do it. (See § 416.965(a)).

* * * * *

■ 6. Revise § 416.965 to read as follows:

§ 416.965 Your work experience as a vocational factor.

(a) *General. Work experience* means skills and abilities you have acquired through work you have done which show the type of work you may be expected to do. Work you have already been able to do shows the kind of work that you may be expected to do. We consider that your work experience applies when it was done within the last five years, lasted long enough for you to learn to do it, and was substantial gainful activity. We do not usually consider that work you did more than five years before the time we are deciding whether you are disabled applies. A gradual change occurs in most jobs so that after five years it is no longer realistic to expect that skills and abilities acquired in a job done then continue to apply. The five-year guide is intended to ensure that remote work experience is not currently applied. If you have no work experience or worked only ''off-and-on'' or for brief periods of time during the five-year period, we generally consider that these do not apply. If you have acquired skills through your past work, we consider you to have these work skills unless you cannot use them in other skilled or semi-skilled work that you can now do. If you cannot use your skills in other skilled or semi-skilled work, we will consider your work background the same as unskilled. However, even if you have no work experience, we may consider that you are able to do unskilled work because it requires little or no judgment and can be learned in a short period of time.

(b) *Information about your work.* Under certain circumstances, we will ask you about the work you have done in the past. If you cannot give us all of the information we need, we may try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker. When we need to consider your work experience to decide whether you are able to do work that is different from what you have done in the past, we will ask you to tell us about all of the jobs you have had in the last five years. You must tell us the dates you worked, all of the duties you did, and any tools, machinery, and equipment you used. We will need to know about the amount of walking, standing, sitting, lifting and carrying you did during the workday, as well as any other physical or mental duties of your job. If all of your work in the past five years has been arduous and unskilled, and you have very little education, we will ask you to tell us about all of your work from the time you first began working. This information could help you to get disability benefits.

[FR Doc. 2023–21557 Filed 9–28–23; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Docket No. SSA–2023–0015]

RIN 0960–AI81

Expand the Definition of a Public Assistance Household

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to expand the definition of a public assistance (PA) household for purposes of our programs, particularly the Supplemental Security Income (SSI) program, to include the Supplemental Nutrition Assistance Program (SNAP) as an additional means-tested public income maintenance (PIM) program. In addition, we seek public comment on expanding the definition to include households in which *any other* (as opposed to *every other*) member receives public assistance. We expect that the proposed rule would decrease the number of SSI applicants and recipients charged with in-kind support and maintenance (ISM). In addition, we expect that this proposal would decrease the amount of income we would deem to SSI applicants or recipients because we would no longer deem income from ineligible spouses and parents who receive SNAP benefits and live in the same household. These policy changes would reduce administrative burden for low-income households and SSA.

DATES: To ensure that your comments are considered, we must receive them no later than November 28, 2023.

ADDRESSES: You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2023–0015 so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social

Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the internet. Please visit the Federal eRulemaking portal at *https://www.regulations.gov.* Use the ''Search'' function to find docket number SSA–2023–0015. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to one week for your comment to be viewable.

2. *Fax:* Fax comments to 1–833–410–1631.

3. *Mail:* Address your comments to the: Office of Legislation and Congressional Affairs, Regulations and Reports Clearance Staff, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235.

Comments are available for public viewing on the Federal eRulemaking portal at *https://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Tamara Levingston, Office of Income Security Programs, 6401 Security Blvd., Robert M. Ball Building, Suite 2512B, Woodlawn, MD 21235, 410–966–7384. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *https://www.ssa.gov.*

SUPPLEMENTARY INFORMATION:

Background

We administer the SSI program, which provides monthly payments to: (1) adults and children with a disability or blindness; and (2) people aged 65 and older. Eligible individuals must meet all the requirements in the Social Security Act (Act), including having resources and income below specified amounts.[1] Generally, the more income an individual has, the less their SSI payment will be. Under the SSI program, resources are cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for their support and maintenance.[2] Income, on the other hand, is anything the SSI applicant or recipient receives in cash or in-kind that can be used to meet food and shelter needs.[3] Applicants' and recipients' resources may affect their SSI eligibility, while their income may affect both their SSI eligibility and payment amounts.

Once an applicant is found eligible for SSI, their monthly payment is determined by subtracting countable monthly income from the Federal benefit rate (FBR), which is the monthly maximum Federal SSI payment.[4] The FBR for 2023 is $914 for an individual and $1,371 for an eligible individual with an eligible spouse.[5] The Act and our regulations[6] define income as ''earned,'' such as wages from work, and ''unearned,'' such as gifted cash or ISM.[7]

ISM

As indicated above, income that affects an individual's monthly SSI payment can be provided in cash or in-kind. Under our current regulations, ISM means any food or shelter that is given to an individual or that the individual receives because someone else pays for it.[8] For example, if an applicant or recipient lives with their sibling and does not pay rent, we would consider the shelter that their sibling provides to be ISM. Similarly, if an applicant or recipient lives with a friend and consumes the food in their friend's home but does not contribute toward the food or shelter, we consider both the food and shelter that the friend provides to be ISM. As another example, if an applicant or recipient lives alone and their parents bring them groceries each month and pay their utility bills, we consider their parents' help to be ISM.

Like other forms of income, ISM can reduce the amount of a recipient's monthly SSI payment. For example, we reduce the SSI monthly payment by one-third of the FBR for an individual (and eligible spouse) living in the household of another person who provides the individual (and eligible spouse) with both food and shelter.[9] We discuss the specific means of doing so below in the ''Current Policy'' section.

Because ISM requires that applicants or recipients receive food, shelter, or both, by definition, ISM does not apply if applicants or recipients live alone and pay for their own food and shelter, or if they live with other people and pay their pro rata share of the food and shelter expenses for the household.[10] Further, ISM does not apply when applicants or recipients live only with their spouses and any minor children, and nobody outside the household pays for their food and shelter, regardless of whether the spouse or minor child provides food or shelter.[11] Additional circumstances regarding ISM are discussed further in our regulations.[12]

Deeming Income

In addition to counting ISM that an applicant or recipient receives, the SSI program deems income of certain individuals to the SSI applicant or recipient.[13] ''Deeming'' is the process of considering a portion of another person's income to be the income of an SSI applicant or recipient.[14] When our deeming rules apply, it does not matter whether the other person's income is actually available to the applicant or recipient.[15] In determining an SSI applicant's or recipient's eligibility and payment amount, we consider both the SSI applicant's or recipient's own income as well as any relevant deemed income from others. For example, when a child who is applying for or receiving SSI lives with a parent who is ineligible for SSI, we deem a portion of that parent's income to the child through the month in which the child reaches age 18.[16] Likewise, when an adult who is

[1] See 42 U.S.C. 1382 and 20 CFR 416.202 for a list of the eligibility requirements. See also 20 CFR 416.420 for general information on how we compute the amount of the monthly payment by reducing the benefit rate by the amount of countable income as calculated under the rules in subpart K of 20 CFR part 416.

[2] 20 CFR 416.1201(a).

[3] 20 CFR 416.1102. See also 20 CFR 416.1103 for examples of items that are not considered income.

[4] See 20 CFR 416.405 through 416.415. Some States supplement the FBR amount.

[5] 87 FR 64296, 64298 (2022). A table of the monthly maximum Federal SSI payment amounts for an eligible individual, and for an eligible individual with an eligible spouse, is available at *https://www.ssa.gov/oact/cola/SSIamts.html.* When the FBR is adjusted for the cost of living, the amount of the potential ISM reduction adjusts accordingly.

[6] See 42 U.S.C. 1382a; 20 CFR 416.1102 through 416.1124.

[7] See 20 CFR 416.1104.

[8] See 20 CFR 416.1130(b). We recently published a proposed rule to remove food from the calculation of ISM. See *88 FR 9779, Omitting Food From In-Kind Support and Maintenance Calculations,* published February 15, 2023.

[9] See 42 U.S.C. 1382a(a)(2)(A). According to Balkus, Sears, Wilschke, and Wixon, ''[t]he law creating the SSI program included the one-third reduction provision so that SSA would not have to determine the actual value of room and board when a recipient lived with a friend or relative.'' Balkus, Richard; Sears, James; Wilschke, Susan; and Wixon, Bernard, *Simplifying the Supplemental Security Income Program: Options for Eliminating the Counting of In-kind Support and Maintenance,* Social Security Bulletin, vol. 68, no. 4, 2008, available at: *www.ssa.gov/policy/docs/ssb/v68n4/v68n4p15.html.*

[10] See 20 CFR 416.1133. As a general principle, if SSI recipients do not contribute their pro-rata share of household operating expenses, but they do contribute an amount within $20 of their pro rata share of household operating expenses, we treat the situation as if the recipients pay their pro rata share, and do not reduce benefits because of ISM. See POMS SI 00835.160.

[11] See 20 CFR 416.1148.

[12] See 20 CFR 416.1130 through 416.1148.

[13] See 42 U.S.C. 1382c(f); 20 CFR 416.1160.

[14] See 20 CFR 416.1160.

[15] See 20 CFR 416.1160, 416.1161.

[16] See 20 CFR 416.1165.

applying for or receiving SSI lives with a spouse who is ineligible for SSI, we deem a portion of the spouse's income to the applicant or recipient.[17] We look at the deemor's income to see if we must deem a portion of it to the applicant or recipient, because we expect the deemor to use some of their income to take care of (some of) the applicant or recipient's needs. Ultimately, only some of the deemor's income is assigned to the SSI applicant or recipient.

Some income from ineligible parents and spouses is not deemed to the SSI applicant or recipient. For example, our current policy excludes from deeming: the amount of any public income-maintenance (PIM) payments the ineligible parents and spouses receive under the programs listed in the PA household definition,[18] any income that those programs counted or excluded in determining the amount of the PIM payments they received, and any income of the ineligible spouse or parent that is used by a PIM program to determine the amount of that program's benefit to someone else.[19] For example, if an ineligible spouse or parent receives Temporary Aid for Needy Families (TANF) assistance based on their income of $400 per month, we do not consider the TANF benefit amount or the $400 in our income determination for the SSI applicant or recipient.

Current Policy

We define a PA household as one in which every member of the household receives a PIM payment under at least one of the following:

1. Title IV–A of the Social Security Act (Temporary Assistance for Needy Families or TANF);

2. Title XVI of the Social Security Act (Supplemental Security Income or SSI);

3. The Refugee Act of 1980 (payments based on need);

4. The Disaster Relief and Emergency Assistance Act;

5. General assistance programs of the Bureau of Indian Affairs;

6. State or local government assistance programs based on need (tax credits or refunds are not assistance based on need); and

7. Department of Veterans Affairs program (payments based on need).[20]

If an SSI applicant or recipient lives in a PA household, we do not consider them to be receiving ISM from other people within the household (*i.e.,* ''inside ISM'').[21] This policy is based on the idea that if the other individuals in the household are receiving a PIM payment, they need their income (and resources) for their own needs and therefore cannot support the SSI applicant or recipient. Thus, we do not develop information to determine the amount of inside ISM if an SSI applicant or recipient is found to be living in a PA household.

As discussed in the ''Deeming Income'' section above, under our regulations, we do not deem to an SSI applicant or recipient the value of PIM payments received by an ineligible parent or spouse, the income used by the PIM program to calculate that program's payment, or any income of the ineligible spouse or parent that is used by a PIM program to determine the amount of that program's benefit to someone else. This is also based on the premise that the income used to demonstrate eligibility for a PIM program and the PIM payment itself, is required for the PIM-receiving individual's own needs.

Proposed Policy

We propose two changes and seek public comment on a third potential change. First, we propose to make a minor clarification to our definition of a PA household at 20 CFR 416.1142(a). The term ''public assistance'' may have implications outside our programs. Accordingly, we propose to clarify that our definition of ''public assistance household,'' which we use as a term of art, applies only for purposes of our programs. Second, we propose to revise our definition of a PA household in 20 CFR 416.1142(a) by adding SNAP [22] to the existing list of qualifying PIM programs to better reflect the current landscape of means-tested public benefits and streamline claims processing for more people who live in households in which members need their income (and resources) for their own needs. This includes updating the relevant sections within our Program Operations Manual System to reflect the updated regulations.[23]

We propose these changes based on the Commissioner of Social Security's rulemaking authority specified in sections 205(a), 702(a)(5), 1631(d)(1), and 1633(a) of the Social Security Act. Under those sections, the Commissioner may adopt rules regarding the nature and extent of evidence needed to establish benefit eligibility, as well as methods of taking and furnishing such evidence.

During the development of this *Notice of Proposed Rulemaking* (NPRM), we considered other means-tested programs, including Medicaid,[24] the Low Income Home Energy Assistance Program (LIHEAP),[25] the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC),[26] the Housing Choice Voucher Program,[27] Project Based Rental Assistance, and Public Housing,[28] which we discuss in the ''Rationale for the Proposed Policy'' section below. Because this is our first proposed expansion of the definition of a PA household since 1980, when the policy was first established, we propose including one program and will continue to explore additional programs. In addition, given our proposed change to the existing list of qualifying PIM programs, we are seeking public comment on a third potential change that could further reduce burden on SSI recipients, members of their households, and SSA—specifically, considering an SSI applicant or recipient to be residing in a PA household if *any other* (as opposed to *every*) additional household member receives public assistance.

SNAP provides nutrition benefits via an Electronic Benefit Transfer (EBT) card, which can be used to buy groceries at authorized food stores and retailers.[29] Everyone who lives together and purchases and prepares meals together is grouped together as one SNAP household; and, in most cases, the household must meet both gross and net income limits, which vary with household size, for the household to be eligible for and receive SNAP benefits.[30] If everyone in the SNAP household is receiving TANF or SSI, the household may be deemed ''categorically eligible'' for SNAP because they have already been determined eligible for another

[17] See 20 CFR 416.1163.

[18] See 20 CFR 416.1142(a).

[19] See 20 CFR 416.1161(a)(2) and (3).

[20] 20 CFR 416.1142(a).

[21] By contrast, ''outside ISM'' is assistance received from other individuals living outside of the household.

[22] For more information on SNAP, visit *https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program.*

[23] For example, *See* POMS GN 02250.110.

[24] For more information on Medicaid, visit *https://www.medicaid.gov/.*

[25] For more information on LIHEAP, visit *https://www.acf.hhs.gov/ocs/low-income-home-energy-assistance-program-liheap.*

[26] For more information on WIC, visit *https://www.fns.usda.gov/wic.*

[27] For more information on the Housing Choice Voucher Program, visit *https://www.hud.gov/hcv.*

[28] For more information on Public Housing, visit *https://www.hud.gov/program_offices/public_indian_housing/programs/ph.*

[29] See ''How do I receive SNAP benefits?'' available at *https://www.fns.usda.gov/snap/recipient/eligibility.*

[30] See ''Who is in a SNAP household?'' and ''What are the SNAP income limits?'' available at: *https://www.fns.usda.gov/snap/recipient/eligibility.*

means-tested program.[31] SNAP benefits meet the definition of income in our regulations.[32] However, SNAP benefits are excluded from our income counting based on Federal statute.[33] Because our current policy links the types of PIM payments listed in 20 CFR 416.1142(a) with the income of ineligible spouses and parents that is excluded from deeming under 20 CFR 416.1161(a)(2)–(3), adding SNAP to the list of PIM payments will decrease the amount of income that is deemed to SSI applicants and recipients. If an SSI-ineligible spouse or parent is receiving SNAP benefits, any income that was counted or excluded in figuring the amount of the SNAP benefits would not be deemed to the SSI applicant or recipient. In addition, any income of the ineligible spouse or parent that is used to determine the amount of SNAP benefits to someone else would not be deemed to the SSI applicant or recipient.

After the rule goes into effect, we will calculate inside ISM for all new applications and redeterminations based on the new policy. We will work internally to determine the best way of contacting existing SSI recipients affected by this change. However, we redetermine recipients eligibility at periodic intervals,[34] at which time their benefits will be revised [35] to reflect the new policy. In addition, we are exploring whether we may be able to proactively identify within our systems SSI recipients who would be affected by this change so that we can prioritize these cases for recalculation of payment amount.

Rationale for the Proposed Policy

SSI provides a vital safety net for vulnerable individuals. By definition, SSI recipients have little income and limited resources,[36] and a majority (approximately 52%) live in poverty (even when including SSI payments).[37] The PA household provision assumes that SSI applicants or recipients in PA households are not receiving ISM from other household members because other household members presumably need their income and resources for their own needs, and as such, SSI applicants or recipients should not be charged ISM. When we established this policy in 1980, we noted that the set of programs we determined to be for public income-maintenance reflected ''the fact that other agencies have determined that these individuals need all their income for their own needs.'' At the time this rule was finalized, the programs included in our definition broadly reflected the major means-tested benefits programs. However, the current landscape of means-tested benefit programs that are intended to serve individuals who need all of their income for their own needs has changed. Below, we explain (a) the need to update our definition of PA households to reflect changes in public assistance programs and participation over time and (b) our proposed changes.

Since the creation of the SSI program in 1972 and its inception in 1974, the landscape of means-tested public benefit programs has changed significantly. New public benefit programs were established (*e.g.,* LIHEAP began in 1981), others were expanded (*e.g.,* food stamps began as a pilot program in 1961 and began operating nationwide in 1974),[38] and others became more limited (*e.g.,* Aid to Families with Dependent Children [AFDC], a means-tested entitlement program available to all qualifying individuals, was replaced with TANF in 1997, a block-grant assistance program that is not an entitlement). In addition to overall changes in the landscape of public assistance programs, there have been notable shifts in participation between programs. Among the list of programs included in our current definition of a public assistance household, participation has mostly decreased. For example, between 1980 and 2022, there was an 82 percent decrease in AFDC/TANF recipients (from 10 million [39] to less than 2 million [40]) and an 81 percent decrease in Department of Veterans Affairs need-based pension recipients (from 922,000 [41] to 174,000 [42]).[43]

By contrast, over the same period, there was a 50 percent increase in SSI recipients (from less than 4 million to more than 7 million).[44] Relatedly, there have been increases in other means-tested programs that are now more likely to provide public assistance to low-income individuals and households in the U.S. than our current list of public assistance household programs. For example, over this same period, there was a 100 percent increase in SNAP recipients (from 21 million [45] to 42 million [46]), a 70 percent increase in WIC recipients (from 2 million [47] to 6 million [48]), a 75 percent increase in Medicaid recipients (from 22 million [49] to 85 million [50]), and a 65 percent increase in HUD housing assistance recipients (from 2 million [51] to 7 million [52]). The number of households receiving LIHEAP has fluctuated over time in response to energy crises and changes in appropriations; for example,

[31] See ''What are the SNAP income limits?'' available at: *https://www.fns.usda.gov/snap/recipient/eligibility.*

[32] See 20 CFR 416.1102.

[33] 7 U.S.C. 2017(b); *see also* 20 CFR 416, Subpart K, Appendix (I)(a).

[34] See 20 CFR 416.204(b).

[35] The redetermination covers a limited period. Please see Program Operations Manual (POMS) SI 02305.034(B).

[36] To be eligible for SSI, individuals must demonstrate that they do not exceed established income or resource amounts (see: *https://www.ssa.gov/ssi/eligibility* for current amounts). See *https://www.ssa.gov/ssi/spotlights/spot-resources.*

[37] Messel and Trenkamp. 2022. ''Characteristics of Noninstitutional DI, SSI, and OASI Program Participants 2016 Update.'' Research and Statistics Note No. 2022–01. Washington, DC: SSA. Available at: *https://www.ssa.gov/policy/docs/rsnotes/rsn2022-01.html.* We note that the authors of the study indicate that the percent of SSI recipients with family income below 100% of the poverty level is higher for those 65 and older (60.1%) but it is lower for those under 18 (37.4%). The authors also note that the CPS ASEC consistently understates the retirement income of aged individuals, which one should be aware of when considering the percentage of older SSI recipients in poverty.

[38] See *https://fns-prod.azureedge.us/snap/short-history-snap.*

[39] See *https://www.govinfo.gov/content/pkg/GPO-CPRT-105WPRT37945/html/GPO-CPRT-105WPRT37945-2-7.htm.*

[40] See TANF: Total Number of Recipients at *https://www.acf.hhs.gov/sites/default/files/documents/ofa/fy2022_tanf_caseload.pdf.*

[41] Veterans Affairs (VA). 1980. 1980 Annual Report. *https://www.va.gov/vetdata/docs/FY1980.pdf.*

[42] Veteran Benefits Administration. 2022. ''Annual Benefits Report: Fiscal Year 2022.'' Available at *https://www.benefits.va.gov/REPORTS/abr/docs/2022-abr.pdf.*

[43] The decline in veterans' pensions based on need corresponds in part with the 38 percent decrease in the number of veterans in the United States over this period, from 30,118,000 in 1980 to 18,592,457 in 2022.

[44] See *https://www.ssa.gov/OACT/ssir/SSI23/ssi2023.pdf.*

[45] Congressional Budget Office. 1988. ''The Food Stamp Program: Eligibility and Participation.'' Available at *https://www.cbo.gov/sites/default/files/100th-congress-1987-1988/reports/88-cbo-0010.pdf.*

[46] U.S. Department of Agriculture Food and Nutrition Service (USDA FNS). 2022. Supplemental Nutrition Assistance Program Participation and Costs. *https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAPsummary-5.pdf.*

[47] See *https://www.ers.usda.gov/webdocs/publications/46648/15834_fanrr27c_1_.pdf*).

[48] See *https://www.ers.usda.gov/topics/food-nutrition-assistance/wic-program/#:~:text=WIC%20served%20about%206.3%20million,infants%20in%20the%20United%20States.*

[49] See *https://socialwelfare.library.vcu.edu/public-welfare/medicaid-program/#:~:text=Nationally%2C%20for%201980%2C%2021.6%20million,over%2065%20years%20of%20age.*

[50] As of December 2022, available at: *https://data.medicaid.gov/dataset/6165f45b-ca93-5bb5-9d06-db29c692a360/data.*

[51] See *https://crsreports.congress.gov/product/pdf/RL/RL34591.*

[52] This includes 5.2 million people living in federally subsidized units and 1.6 million people living in public assistance housing in 2022. See *https://www.huduser.gov/portal/datasets/assthsg.html.*

LIHEAP served 7.1 million households at the start of the program in 1981, 3.9 million in 2000, 8.1 million in 2010,[53] and 5.4 million in 2021.[54] Despite these shifts in program availability and participation among low-income households, we have not updated our definition of a PA household since it was established in 1980, to better reflect these more widely-used public assistance programs.[55] Revising the definition of PA households aligns with our Agency Strategic Plan (ASP) for Fiscal Years 2022–2026 goal to optimize the experience of our customers [56] and feedback we received from advocates to update and streamline SSI's ISM rules.[57]

Adding SNAP to the List of Public-Income Maintenance Programs

We propose to expand the definition of PA households to include SNAP. We analyzed SNAP, Medicaid, WIC, HUD housing assistance, and LIHEAP and concluded that SNAP is a logical and meaningful first addition, as discussed below.

First, adding SNAP (and considering other, more inherently in-kind benefits like Medicaid) reflects the shift in public participation for in-need individuals from using income supports that are purely cash assistance programs (such as those under our current regulations) toward voucher-based or in-kind support programs. When the SSI program began, AFDC was one of the predominant means-tested programs,[58] but since then, participation in TANF has declined, reducing the usefulness of TANF as a tool for identifying low-income households. For example, the share of families with children in poverty who received AFDC/TANF decreased from 82% in 1979 to 21% in 2020.[59] Because there have not been adjustments to account for inflation or population changes, much of the decline in cash assistance caseloads under TANF resulted from a reduction in the share of eligible families receiving benefits, rather than a reduction in the number of families meeting States' eligibility criteria.[60]

As needs-based programs have shifted from cash assistance benefits toward voucher or in-kind payments that are not included in our current definition, we have a reduced ability to effectively identify the households we intended to serve under the original PA households regulation. Particularly considering the decline in participation in some PIM programs in our current PA household definition and relatively high SNAP participation rates, adding SNAP to the definition would help us better identify households in which members need their income (and resources) for their own needs. Indeed, the USDA estimates that 82 percent of eligible people received SNAP in 2019, including at least half of eligible families across States.[61] SNAP recipients have been determined to be low-income [62] and, therefore, need their income (and resources) to take care of their own needs,[63] which is consistent with our policy when we first established the definition of a PA household. In our 1979 proposed rule to establish the PA household policy, we stated: ''If you live in a household where every person is receiving some kind of public income maintenance payments, we assume that no one in the household is providing you with food, clothing, or shelter[.]'' [64] The basis for this policy is ''the fact that [we or] other agencies have determined that . . . individuals [who receive PA] need all their income for their own needs.'' [65] While we are not proposing to include other means-tested programs like Medicaid, LIHEAP, or HUD public housing and voucher programs assistance benefits at this time we invite the public to share their thoughts on how these programs might align with our proposed new policy. Many SSI recipients live in households that rely on these contemporary public benefits programs. For example, an SSA study found that, in 2016, 52 percent of SSI recipients [66] live in households receiving food assistance through SNAP, 23 percent live in households receiving housing assistance, and 17 percent live in households receiving energy assistance.[67] Another study found that, in 2017, 80 percent of households with at least one SSI recipient included one or more household members who received Medicaid.[68]

Second, although we may consider adding other programs, SNAP eligibility and receipt has relatively low State variability, while still allowing us to identify most SSI beneficiaries who likely live in low-income households. SNAP is a nationwide program with relatively uniform eligibility standards. This will contribute to a more

[53] See *https://www.everycrsreport.com/files/20180622_RL31865_85805bac2287a504f2a4eb05e4637a3cd21eaa2e.pdf.*

[54] See *https://liheappm.acf.hhs.gov/datawarehouse/custom_reports?years=2021√&grantees=AG&reportId=7.*

[55] Between the NPRM and final rule, we added need-based Veterans Affairs payments and broadened the listing covering assistance programs provided by State and local governments. In 1980, we also made technical changes clarifying that tax credits and refunds are not assistance provided by a state or local government and updating the list by replacing the Migration and Refugee Assistance Act of 1962 and the Indochina Migration and Refugee Assistance Act of 1975 with the Refugee Assistance Act of 1980. Since 1980, we made two other technical revisions to our PA household policy in 20 CFR 416.1142. In 1992, we changed ''Disaster Relief Act of 1974'' to the ''Disaster Relief and Emergency Assistance Act,'' and ''Veterans Administration'' to the ''Department of Veterans Affairs.'' See 57 FR 53849 (Nov. 13, 1992). In 2005, we made a technical revision by changing ''Aid to Families with Dependent Children'' to ''Temporary Assistance for Needy Families.'' See 70 FR 41135 (July 18, 2005).

[56] Social Security Administration, Agency Strategic Plan: Fiscal Years 2022–2026, available at: *https://www.ssa.gov/agency/asp/.*

[57] Cf. Notice of Proposed Rulemaking, *Omitting Food From In-Kind Support and Maintenance Calculations.* 88 FR 9779, published February 15, 2023; Executive Order 12866 Combined Listening Session Notes (Fall 2022), available at: *https://www.regulations.gov/document/SSA-2021-0014-0003.*

[58] See Figure 3 in Moffitt. 2015. ''The Deserving Poor, the Family, and the U.S. Welfare System, Demography. 2015 Jun; 52(3): 729–749. Available at: *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC448770.*

[59] See *https://www.cbpp.org/tanfs-reach-declined-significantly-over-time-6.*

[60] See *https://fns-prod.azureedge.us/snap/short-history-snap;*

See *https://www.govinfo.gov/content/pkg/GPO-CPRT-105WPRT37945/html/GPO-CPRT-105WPRT37945-2-7.htm;*

See TANF: Total Number of Recipients at *https://www.acf.hhs.gov/sites/default/files/documents/ofa/fy2022_tanf_caseload.pdf.*

[61] See *https://www.fns.usda.gov/snap/estimates-program-participation-rates-2019.*

[62] SNAP income limits vary by household size, but in most cases, households must meet both the gross (130 percent of poverty) and net (100 percent of poverty) income limits. For example, for a family of three, the gross monthly income limit is $2,495 and the net monthly income limit is $1,920. For more information see ''What are the SNAP income limits?'' at *https://www.fns.usda.gov/snap/recipient/eligibility.*

[63] The Congressional Declaration of Policy for the SNAP program notes, ''Congress finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households,'' suggesting that the purpose of SNAP is to support individuals and families who lack the necessary income to afford nutritional food. 7 U.S.C. 2011.

[64] Dept. of Health, Education, and Welfare—Social Security Administration. NPRM. 44 FR 6429, 6435. (Feb. 1, 1979).

[65] 45 FR 65541, 65542 (Oct. 3, 1980).

[66] The study includes all respondents who self-reported that they received SSI payments in the March 2017 Annual Social and Economic Supplement (ASEC) of the Current Population Survey (CPS).

[67] Messel and Trenkamp. 2022. ''Characteristics of Noninstitutional DI, SSI, and OASI Program Participants 2016 Update.'' Research and Statistics Note No. 2022–01. Washington, DC: SSA. Available at: *https://www.ssa.gov/policy/docs/rsnotes/rsn2022-01.html.*

[68] Giefer. 2021. ''A Profile of Supplemental Security Income Recipients: 2017.'' U.S. Census Bureau. Available at *https://www.census.gov/content/dam/Census/library/publications/2021/demo/p70br-171.pdf.* This study includes all respondents who self-reported that they received SSI payments in the U.S. Census Bureau, 2018 Survey of Program and Participation(SIPP) Public Use File. Each SIPP panel follows individuals for several years, providing monthly data that measure changes in household and family composition and economic circumstances over time.

straightforward operational and systems rollout of the new policy, and greater consistency in recipients' experiences across States.[69]

By contrast, programs with shorter or less predictable benefit periods might require more frequent development of individuals' living arrangements, which could be burdensome for recipients and our staff. Similarly, as we strive for uniformity across the SSI program, we recognize that programs with enrollment caps, waiting lists, or variable eligibility criteria may lead to disparate treatment of similarly situated SSI recipients. We will continue to explore options to add other programs to our definition of PA households.

Third, SNAP participation overlaps to a great extent with participation in other means-tested programs and thus by adding SNAP to the definition of PA households, we anticipate that we will also capture many of the individuals who receive benefits from other means-tested programs. For example, our Office of the Chief Actuary estimates, using the 2022 Annual Social and Economic Supplement (ASEC) to the Current Population Survey (CPS), that expanding our definition of a PA household to include SNAP would capture about 67 percent of SSI recipients who are also living in households currently participating in Medicaid, HUD public housing and voucher programs, or LIHEAP.

Fourth, incorporating SNAP into the definition of PA households will reduce benefit reductions for low-income families. These changes will reduce administrative burdens for SSI applications and recipients, as well as for the agency, as these individuals will not have to provide household expenses information once they establish themselves as living in a PA household [70] (because living in a PA household means the applicant or recipient is considered not to receive any ISM from other household members). It would also lower administrative barriers for SSI applicants and recipients, while addressing the needs of our SSI population. The benefits of expanding access to SSI and reducing the complexity of the program have been highlighted by numerous organizations. In 2015, the Social Security Advisory Board commented on the complexity of ISM, noting that the research indicated that ISM ''computations significantly complicate administration'' of SSI and lead to payment errors.[71] The Social Security Advisory Board recommended that we ''find simpler ways to administer the SSI program.'' [72] On a related note, advocacy organizations [73] had suggested including SNAP in the definition of PA households in response to our NPRM, *Omitting Food From In-Kind Support and Maintenance Calculations,*[74] and expanding the definition to include SNAP is also consistent with the goals of the White House National Strategy on Hunger, Nutrition, and Health.[75]

This change to our definition of PA households is a logical and meaningful step towards ensuring that ISM and income deeming for those receiving means-tested benefits do not undermine the economic security of households who receive SNAP. Expanding the definition of a PA household will ensure our policies better represent the current landscape of means-tested programs in the United States and reduce administrative burdens.

Potential Policy Change—Shifting From ''Every'' to ''Any'' Member of the Household

We seek public comment on a potential policy change to expand the definition of PA households to include households in which *any other* household member receives public assistance. In establishing the Public Assistance Household rule in 1980, we noted that our rule ''relied on the fact that other agencies have determined that these individuals need all their income for their own needs.'' [76] Because SNAP is a household-level benefit, a similar determination has already been made for all members of the household. Other PIM programs included in our current rule are similarly based on household eligibility criteria. With the proposed addition of SNAP, especially given its high rate of participation, it might be unnecessary to develop PIM participation for every member of the household.

In addition, our current requirement that every member of the household be receiving a PIM payment might disadvantage individuals in low-income households with a household member who is not receiving a PIM payment for reasons unrelated to need. SNAP and TANF restrict certain individuals in the household from receiving benefits even if their income is used to determine the household's eligibility. For example, adults who have exceeded eligibility time limits and certain non-citizens are not eligible to receive TANF.[77] Another example is that some members of a household are not eligible to receive SNAP because of their immigration status.[78] In these examples, although the SSI recipient lives in a household where the other members are receiving TANF or SNAP, we would not consider this a PA Household because not every member of the household is receiving a PIM payment. As a result, we may treat the SSI recipient as receiving inside ISM and would reduce their benefit by up to one-third of the FBR.

In addition, within households with an SSI applicant or recipient and at least one other member receiving means-tested benefits, it may be reasonable to infer that in most cases, all members of the household are low income and need their income and resources to support their own needs. For instance:

[69] Specifically, while income limits to be eligible for SNAP vary by the size of the household and certain deductions from income are allowed, net monthly income limits are set at 100 percent of the poverty level and net income is gross income minus allowable deductions. SNAP has work requirements, but some groups may not be subject to these requirements, including children, seniors, pregnant women, and people who are exempt for physical or mental health reasons. If eligible, SNAP recipients receive a notice that states how long they will receive SNAP benefits, which is called the certification period. Households must reapply for SNAP periodically, typically every 6 to 12 months for most families and every 12 to 24 months for older adults and people with disabilities.

[70] For further discussion of the benefits of reduced burdens and barriers related to developing ISM, see our proposed rule *Omitting Food From In-Kind Support and Maintenance Calculations,* 88 FR 9779, February 15, 2023.

[71] Social Security Advisory Board (SSAB). 2015. Social Security Advisory Board Statement on the Supplemental Security Income Program: The Complexity of In-Kind Support and Maintenance. *https://www.ssab.gov/wp-content/uploads/2021/03/2015_-SSI_In-Kind_SupportMaintenance.pdf.*

[72] Id.

[73] See Comment from Center on Budget and Policy Priorities, available at: *https://www.regulations.gov/comment/SSA-2021-0014-3898;*

Comment from Disability Law Center, available at: *https://www.regulations.gov/comment/SSA-2021-0014-4269;*

Comment from Coalition on Human Needs, available at: *https://www.regulations.gov/comment/SSA-2021-0014-4268;*

Comment from National Association of Disability Representatives, available at: *https://www.regulations.gov/comment/SSA-2021-0014-3851;* and

Comment from Center for Law and Social Policy (CLASP), available at: *https://www.regulations.gov/comment/SSA-2021-0014-4270.*

[74] Omitting Food From In-Kind Support and Maintenance Calculations, 88 FR 9779, February 15, 2023.

[75] White House. 2022. Biden-Harris Administration National Strategy on Hunger, Nutrition, and Health, available at: *https://www.whitehouse.gov/wp-content/uploads/2022/09/White-House-National-Strategy-on-Hunger-Nutrition-and-Health-FINAL.pdf.*

[76] 45 FR 65542.

[77] *https://www.acf.hhs.gov/sites/default/files/documents/ofa/fy2021_characteristics.pdf.*

[78] See ''Are non-citizens eligible for SNAP?'' at *https://www.fns.usda.gov/snap/recipient/eligibility.*

- Seventy percent of SSI recipients live in households with family incomes below $30,000.[79]
- In FY 2020, 81 percent of SNAP households had gross monthly income less than or equal to the poverty line.[80]
- An analysis of families receiving multiple public benefits found that higher levels of benefit receipt is associated with lower income, earnings, and employment, and greater material hardship.[81]
- A 2013 study found that after accounting for SSI benefits, only 8 percent of non-couple, multirecipient SSI households in which every member received SSI lived in poverty, whereas 25 percent of non-couple, multirecipient SSI households where there is at least one member who does not receive SSI lived in poverty.[82]
- The 2019 Survey of Income and Program Participation finds that in households that receive both TANF and SSI, 85.7 percent (+/− 8.4%) have incomes less than 200 percent of the Federal Poverty Level, even after all transfers (that is, including the income the household receives from all sources of cash public assistance payments).[83]
- Lastly, related to the proposed policy to add SNAP to the PA household definition, among households receiving SSI in 2021, 64.7 percent also qualified for and received SNAP.[84]

[79] Messel and Trenkamp. 2022. ''Characteristics of Noninstitutional DI, SSI, and OASI Program Participants 2016 Update.'' Research and Statistics Note No. 2022–01. Washington, DC: SSA. Available at: *https://www.ssa.gov/policy/docs/rsnotes/rsn2022-01.html.*

[80] See USDA FNS. 2022. Characteristics of U.S. Department of Agriculture's Supplemental Nutrition Assistance Program Households: Fiscal Year 2020. Available at *https://fns-prod.azureedge.us/sites/default/files/resource-files/Characteristics2020-Summary.pdf.*

[81] Edelstein, Pergamit, and Ratcliffe. 2014. Characteristics of Families Receiving Multiple Public Benefits. The Urban Institute. Available at *https://www.urban.org/sites/default/files/publication/22366/413044-Characteristics-of-Families-Receiving-Multiple-Public-Benefits.PDF.*

[82] Nicholas. 2013. Prevalence, Characteristics, and Poverty Status of Supplemental Security Income Multirecipients. Social Security Bulletin, Vol. 73, No. 3, Washington, DC: SSA. Available at *https://www.ssa.gov/policy/docs/ssb/v73n3/v73n3p11.html.*

[83] We selected the 2019 (reference year 2018) SIPP survey because it had the largest sample size of pre- COVID 19 SIPP surveys. U.S. Census Bureau. 2019. Survey of Income and Program Participation. Available at *https://www.census.gov/library/visualizations/interactive/social-safety-net-benefits.html.* The most recent SIPP survey found that 61.2 percent (+/− 21.4%) of these same households had incomes less than 200 percent of the Federal Poverty Level. The 2021 SIPP is inclusive of COVID-era stimulus payments and other transfer programs that no longer exist.

[84] U.S. Census Bureau. 2022. Who Is Receiving Social Safety Net Benefits? available at *https://www.census.gov/library/stories/2022/05/who-is-receiving-social-safety-net-benefits.html.*

This potential change could further simplify the development of living arrangements and ISM, reduce SSA's administrative costs and compliance costs during initial determinations and redeterminations for applicants and recipients living in PA households, and reduce ISM complexities that lead to payment errors. Removing the requirement that every other member is in receipt of a PIM payment could better ensure that we reach all qualified SSI beneficiaries based on their need, especially in cases where one individual in a household was categorically ineligible for a PIM payment for reasons unrelated to their potential need.

Solicitation for Public Comment

As discussed elsewhere in this NPRM, we are seeking public comment on this proposed rule. Questions that interested parties may wish to consider when evaluating this proposed rule:

1. Should we expand the definition of PA households to include households in which *any other* household member (in addition to the SSI applicant or recipient) receives public assistance? As discussed above, generally SSI applicants and recipients live in low-income households and may live in households where certain individuals are ineligible for PIM payments for reasons unrelated to need. Would this change to PA households ensure that our definition appropriately captures low-income households in which individuals need their income and resources to support their own needs?

2. Are there additional aspects of the PA household definition that we could simplify under current statutory authorities? What would be the effects of doing so?

3. Are there any other means-tested programs, such as Medicaid, that we should consider adding to the PA household definition? We encourage including any sources of support with these recommendations. If we expand our definition to include additional programs, what would be the implications for SSI recipients across States? To what extent will program variability across states and in terms of eligibility thresholds, income limits, enrollment caps, seasonality or time limits, frequency of recertification, and other factors affect SSI recipients?

4. What factors should we consider when determining if additional programs should be added to the PA household definition? For example, factors could include the size of the program, overlap among means-tested programs, and eligibility requirements.

5. Do you have additional information that relates to or otherwise informs our description of SSI applicant or recipient experiences under current PA household policies?

6. Are there forms or other information collections that we have not noted that would or should require modification as a result of this proposed policy change?

7. Are there other information collection improvements that could further reduce respondent burden, either under the current ISM policy or under the policy proposed in this rule?

8. Is there additional data or research related to equity and the SSI population (or, more generally, low-income or disabled populations) that could also be used to inform any final rule?

9. Do you have any additional justifications for, or arguments against, this proposed rule?

10. Are there methods we could use to measure the time-savings associated for claimants or other members of the public with this proposed rule? Are there methods of the value of time we could use to measure the opportunity costs associated with our current or proposed policy?

Rulemaking Analyses and Notices

We will consider all comments we receive on or before the close of business on the comment closing date indicated above. The comments will be available for examination in the rulemaking docket for these rules at the above address. We will file comments received after the comment closing date in the docket and will consider those comments to the extent practicable. However, we will not respond specifically to untimely comments. We may publish a final rule at any time after close of the comment period.

Clarity of These Proposed Rules

Executive Order (E.O.) 12866, as supplemented by E.O. 13563 and E.O. 14094, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rules clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?
- Do the rules contain technical language or jargon that is not clear?
- Would a different format make the rules easier to understand, *e.g.,* grouping

and order of sections, use of headings, paragraphing?

When will we start to use this rule?

We will not use this rule until we evaluate public comments and publish a final rule in the **Federal Register**. All final rules include an effective date. We will continue to use our current rules until that date. If we publish a final rule, we will include a summary of those relevant comments we received along with responses and an explanation of how we will apply the new rule.

Regulatory Procedures

E.O. 12866, as Supplemented by E.O. 13563 and E.O. 14094

We consulted with the Office of Management and Budget (OMB) and determined that this rule is significant under Section 3(f)(1) of E.O. 12866, as supplemented by E.O. 13563 and E.O. 14094. Therefore, OMB reviewed it.

Anticipated Transfers to Our Program

Transfer Payments for Current Policy Proposal

The primary anticipated impact of this rule is an increase in monetary transfers from the government to SSI recipients. Our Office of the Chief Actuary (OCACT) estimates that implementation of this proposed rule would result in a total increase in Federal SSI payments of $14.8 billion over fiscal years 2024 through 2033, assuming implementation of this rule on May 15, 2024. This represents an increase of approximately two percent in total Federal SSI payments in fiscal year 2033, when the effects of the rule would be fully realized. To estimate the impact, OCACT used the Annual and Social Economic Supplement (ASEC) to the Current Population Survey (CPS) and our administrative data. We expect that adding SNAP to the list will increase the number of PA households for which we do not charge inside ISM, which will increase Federal SSI payments for these beneficiaries. In addition, we expect that no longer deeming income from ineligible spouses and parents who receive SNAP will increase Federal SSI payments. According to our Office of Systems, Office of Benefit Information Systems, as of January 2023, there were 303,609 SSI recipients living in a PA household according to the current definition, approximately four percent of our total 7.7 million SSI recipients.[85] We expect the share of SSI recipients living in a PA household, as defined under the proposed rule, to increase substantially when the new rule is implemented. Specifically, OCACT estimates that once this proposed rule is implemented and the effects have stabilized, in fiscal year 2033 roughly 253,000 Federal SSI recipients (3 percent of all SSI recipients) will have an increase in monthly payments compared to current rules, and an additional 101,000 individuals (1 percent increase) will receive Federal SSI payments who would not have been eligible under current rules.

Additionally, as with the PIM payments in our regulations that interact with the SSI program rules, adding SNAP benefits to our PA household definition could result in a reduction of SNAP benefits. For example, if an ineligible spouse or parent were receiving SNAP, we would no longer deem their income to an SSI applicant or recipient. Not deeming income for SSI purposes could lead to an increase in the SSI payment, which could in turn cause the household to receive a SNAP reduction that is 30 percent of the SSI increase, up to the point of ineligibility.[86] The household's ineligibility for SNAP could mean, in turn, that the SSI recipient is no longer part of a PA household for SSI purposes. Our understanding is that: an individual or household generally would prefer cash to SNAP benefits; an increase in SSI could not result in a decrease in SNAP benefits greater than the increase in SSI; and, in the main, the increase in SSI that may result from adding SNAP to our definition of a PA household will be favorable on net to individuals and households. However, we recognize that the interplay among various benefit types, as well as the relationships and financial interests of the SSI individual and other household members, can be complicated. We cannot necessarily predict how the proposed change could affect individuals participating in other programs within these households.

Transfer Payments for Potential Future ''Every''/''Any Other'' Change

If we were to adopt the change to the PA Household definition from *every* member to *any other* member, in addition to adding SNAP to the list of PIM programs, our Office of the Chief Actuary (OCACT) estimates that implementation of this change would result in a total increase in Federal SSI payments relative to our current rules of $15.9 billion over fiscal years 2024 through 2033, assuming implementation of this rule on May 15, 2024. This represents an increase in Federal SSI payments that is about 8 percent higher than the estimate for the current proposal. OCACT estimates that if this change were implemented, in fiscal year 2033 roughly 278,000 Federal SSI recipients would have an increase in monthly payments compared to the current rules (10 percent increase compared to the current proposal) and an additional 113,000 individuals (13 percent increase compared to the estimated number for the current proposal) would receive Federal SSI payments who would not have been eligible under current rules.

Anticipated Net Administrative Cost to the Social Security Administration

The Office of Budget, Finance, and Management estimates that this proposal will result in a total net administrative cost of $105 million for the 10-year period from FY 2024 to FY 2033. This estimate includes costs to update our systems, to send notices to inform current recipients of the policy changes, to address inquiries from the notices, to verify receipt of SNAP benefits, and to perform additional post-eligibility actions to account for changes in living arrangements. Under this proposed regulation, more individuals will be eligible for SSI benefits than under the current rule, resulting in additional costs to process additional claims, reconsiderations, appeals, redeterminations, and post-eligibility actions. The aforementioned costs are partially offset by processing time savings as field office employees will not have to spend time developing for household expenses/contributions, the income of deemors, or go through the inside ISM determination process during initial claims, pre-effectuation reviews, redeterminations, and post-eligibility actions.

Anticipated Qualitative Costs & Benefits

We anticipate qualitative benefits from the proposed revision of adding SNAP to the PA household definition, thereby ensuring that ISM and income deeming do not undermine the economic security of households who receive nutrition assistance.

Under our proposed policy, the list of programs would include SNAP. Once we identify that an SSI applicant or recipient lives in a PA household, they would not have to provide household expenses information.

[85] Annual Statistical Supplement, 2022—Summary of SSI. Available at: *https://www.ssa.gov/policy/docs/statcomps/supplement/2022/7a.html.*

[86] Because SNAP households are expected to spend about 30 percent of their own resources on food, the maximum monthly allotment is calculated by multiplying a household's net monthly income by 0.3 and subtracting the result from the maximum monthly allotment for the household size. See ''How much could I receive in SNAP benefits?'' at *https://www.fns.usda.gov/snap/recipient/eligibility.*

Currently, the SSI applicant or recipient is responsible for answering questions about public assistance received so that we may determine if they reside in a PA household. Our current policy requires documentation on the PIM payments received. This will not change, but we will add SNAP to the list of programs that are considered for PA households. Like under our current policy, we will need to verify receipt of benefits from this program. Processing time at our processing centers may temporarily increase while we recalculate benefit amounts for current SSI recipients and process an influx of newly eligible SSI applicants.

It is possible this proposed regulatory change may incentivize current SSI recipients to change living arrangements to co-locate with family or friends who are receiving SNAP. This may increase the need for additional development in these circumstances. This is similar to our current policy that requires SSI applicants and recipients to notify us of changes in their living arrangements. SSI applicants and recipients will need to ask ineligible spouses or parents whether their income was used to determine eligibility for or the amount of the SNAP benefits. If it was, we would exclude the income for deeming purposes in the SSI program.

Executive Order 13132 (Federalism)

We analyzed this proposed rule in accordance with the principles and criteria established by E.O. 13132 and determined that the proposed rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment. We also determined that this proposed rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that these proposed rules will not have a significant economic impact on a substantial number of small entities because they affect individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

These rules do not create any new collections, or require revisions to existing collections, and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act. However, the application of the revisions to these rules may cause burden changes to the collection instruments for the following information collection requests: 0960–0174, the SSA–8006, Statement of Living Arrangements, In-Kind Support and Maintenance; 0960–0456, the SSA–8011, Statement of Household Expense and Contributions; and 0960–0529, the SSA–5062, Claimant Statement about Loan of Food or Shelter, and the SSA–L5063–F3, Statement about Food or Shelter Provided to Another. We anticipate a small burden reduction per response for the SSA–8006 (0960–0174) as respondents will not need to develop the responses about their household. In addition, we anticipate a 50% reduction in the number of respondents based on those who indicate they are part of a Public Assistance Household and who may not need to complete the follow-up forms SSA–5062, SSA–L5063, SSA–8006, and SSA–8011.

The following chart shows the reduction in time burden information associated with the proposed rule:

OMB #; form #; CFR citations	Number of respondents	Frequency of response	Current average burden per response (minutes)	Current estimated total burden (hours)	Anticipated new number of respondents under regulation	Anticipated new burden per response under regulation (minutes)	Anticipated estimated total burden under regulation (hours)	Estimated burden savings (hours)
0960–0174 SSA–8006 (Paper Form)	12,160	1	7	1,419	12,160	6	1,216	203
0960–0174 SSA–8006 (SSI Claims System)	109,436	1	7	12,768	109,436	6	10,944	1,824
0960–0456 SSA–8011–F3 (Paper Form)	21,000	1	15	5,250	10,500		2,625	2,625
0960–0456 Personal Interview (SSI Claims System)	398,759	1	15	99,690	199,380		49,845	49,845
0960–0529 SSA–5062 (Paper version)	29,026	1	30	14,513	14,513		7,257	7,256
096–0529 SSA–5062 (SSI claim system)	29,026	1	20	9,675	14,513		4,838	4,837
0960–0529 SSA–L5063 (Paper version)	29,026	1	30	14,513	14,513		7,257	7,256
0960–0529 SSA–L5063 (SSI claim system)	29,026	1	20	9,675	14,513		4,838	4,837
Totals	657,459			167,503	389,528		88,820	78,693

The following chart shows the reduction in theoretical cost burdens associated with the proposed rule:

OMB #; form #; CFR citations	Anticipated new number of respondents	Estimated burden per response from chart above (minutes)	Average theoretical hourly cost amount (dollars) *	Average combined wait time in field office and/or teleservice centers (minutes) **	Anticipated annual opportunity cost (dollars) ***
0960–0529 SSA–5062 (Paper version)	14,513	30	*$21.29	**24	***$432,506
0960–0529 SSA–5062 (SSI claim system)	9,675	20	*$21.29	**24	***$288,373
0960–0529 SSA–L5063 (Paper version)	14,513	30	*$21.29	**24	***$432,506
0960–0529 SSA–L5063 (SSI claim system)	14,513	20	*$21.29	**24	***$288,373
0960–0174 SSA–8006 (Paper Form)	6,080	6	*$12.81	**24	***$109,039
0960–0174 SSA–8006 (SSI Claims System)	54,718	6	*$12.81	**24	***$981,310
0960–0456 SSA–8011–F3 (Paper Form)	10,500	15	$29.76	**21	***$421,846
0960–0456 Personal Interview (SSI Claims System)	199,380	15	$29.76	**21	***$8,010,291
Totals	323,892				***$10,964,244

*We based this figure on the average DI payments based on SSA's current FY 2023 data (*https://www.ssa.gov/legislation/2023factsheet.pdf*); on the average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).

** We based this figure on the average FY 2023 wait times for field offices and hearings office, as well as by averaging both the average FY 2023 wait times for field offices and teleservice centers, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

SSA submitted a single new Information Collection Request which encompasses revisions to information collections currently under OMB Numbers 0960–0174, 0960–0456, and 0960–0529) to OMB for the approval of the changes due to the proposed rule. After approval at the final rule stage, we will adjust the figures associated with the current OMB numbers for these forms to reflect the new burden. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated techniques or other forms of information technology. In addition, we are specifically seeking comment on whether you have any questions or suggestions for edits to the forms referenced above in the context of this proposed regulatory change. If you would like to submit comments, please send them to the following locations:

Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*

Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

You can submit comments until November 28, 2023, which is 60 days after the publication of this notice. However, your comments will be most useful if you send them to SSA by October 30, 2023, which is 30 days after publication. To receive a copy of the OMB clearance package, contact the SSA Reports Clearance Officer using any of the above contact methods. We prefer to receive comments by email or fax.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

The Acting Commissioner of Social Security, Kilolo Kijakazi, Ph.D., M.S.W., having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

For the reasons stated in the preamble, we propose to amend 20 CFR chapter III, part 416, subpt. K, as set forth below:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart K—Income

■ 1. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383, and 1383b; sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

■ 2. Amend § 416.1142 by revising paragraphs (a) introductory text and (a)(6) and (7) and adding paragraph (a)(8) to read as follows:

§ 416.1142 If you live in a public assistance household.

(a) *Definition.* For purposes of our programs, a public assistance household is one in which every member receives some kind of public income-maintenance payments. These are payments made under—

* * * * *

(6) State or local government assistance programs based on need (tax credits or refunds are not assistance based on need);

(7) U.S. Department of Veterans Affairs programs (those payments based on need); and

(8) The Supplemental Nutrition Assistance Program (SNAP).

* * * * *

[FR Doc. 2023–21550 Filed 9–28–23; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 112

[Docket No. FDA–2017–D–0175]

Draft Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Sprouts for Human Consumption; and Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Sprouts for Human Consumption; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of two guidance documents that will help sprout operations subject to FDA's final rule entitled ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption'' (the Produce Safety Rule) understand the topics covered in the Produce Safety Rule pertaining to personnel qualifications, training, and hygienic practices; equipment, tools, and buildings; and sampling and testing of spent sprout irrigation water (or in-process sprouts). FDA is issuing a draft guidance entitled, ''Draft Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Sprouts for Human Consumption,'' which revises a currently issued draft guidance entitled ''Compliance with and Recommendations for Implementation of the Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption for Sprout Operations'' (January 23, 2017) (the January 2017 draft guidance). In addition, FDA is announcing the availability of a final guidance entitled ''Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Sprouts for Human Consumption,'' which finalizes portions of the January 2017 draft guidance with additional clarifications in response to comments.

DATES: Submit either electronic or written comments on the draft revised guidance by March 27, 2024 to ensure that FDA considers your comment on the draft revised guidance before we

begin work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–0175 for ''Draft Guidance for Industry: Standards for the Growing Harvesting, Packing, and Holding of Sprouts for Human Consumption.'' 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.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the revised draft guidance document to the Division of Produce Safety, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1600. Send two self-addressed adhesive labels to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Samir Assar, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740–3835, 240–402–1636.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a draft guidance for industry entitled ''Draft Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Sprouts for Human Consumption.'' The draft guidance is a revision of the January 2017 draft guidance entitled ''Draft Guidance for Industry: Compliance with and Recommendations for Implementation of the Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption for Sprout Operations'' and contains revised information in the sections entitled ''Equipment, Tools and Buildings'' (titled ''Buildings, Tools and Equipment'' in the January 2017 draft guidance) and ''Sampling and Testing of Spent Sprout Irrigation Water (or In-Process sprouts)'' (sections IV and V, respectively, which were sections IV and VIII in the January 2017 draft guidance) and consolidates information on personnel qualifications, training, and hygienic practices into a new standalone section. FDA is also issuing a final guidance entitled ''Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Sprouts for Human Consumption,'' that finalizes recommendations from the January 2017 draft guidance with additional clarifications in response to comments. Additionally, we have revised the titles of both the draft guidance and final guidance to make them more concise and to promote clarity.

We are issuing these guidance documents consistent with our good guidance practices regulation (21 CFR 10.115). The guidance documents do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

In the **Federal Register** of January 23, 2017 (82 FR 7751), we made available the 2017 draft guidance and gave interested parties an opportunity to submit comments by July 24, 2017, for us to consider before beginning work on the final version of the guidance. We received several comments on the January 2017 draft guidance, and we address those comments in the final guidance.

We are issuing revised sections of the January 2017 draft guidance for additional comment in the draft guidance. The draft guidance includes revised sections on ''Equipment, Tools and Buildings,'' and ''Sampling and Testing of Spent Sprout Irrigation Water

(or In-Process Sprouts)'', and a new section entitled ''Personnel Qualifications, Training, and Hygienic Practices.'' We are issuing these sections for additional comment for the following reasons:

- *Equipment, Tools and Buildings:* This section has been revised to facilitate alignment with the recommendations in related guidances.
- Sampling and Testing of Spent Sprout Irrigation Water (or In-Process Sprouts): We are reissuing this section in draft to receive additional comments and feedback from sprouting operations, which will inform ongoing FDA research on this topic.
- Personnel Qualifications, Training, and Hygienic Practices: In the January 2017 draft guidance, many of the recommendations for personnel qualifications, training, and hygienic practices were dispersed throughout, rather than being consolidated in a single section. In the draft guidance, the recommendations are consolidated into a standalone section entitled ''Personnel Qualifications, Training, and Hygienic Practices'' to ensure that we present the recommendations comprehensively and to facilitate ease of reading.

We welcome comments on any aspect of the draft guidance. We are particularly interested in receiving information about any testing of spent sprout irrigation water or in-process sprouts that sprout operations are currently doing for non-O157 Shiga toxin-producing *Escherichia coli* (STEC), including test kit names (as applicable).

We are finalizing other sections of the January 2017 draft guidance with minor revisions. Changes to the final guidance include: clarifying the recommendations regarding the frequency of cleaning and sanitizing; providing additional recommendations on seed for sprouting, including seed treatment and corrective actions; removing language on voluntary periodic sampling and testing of sprouts, and clarifying our expectations for corrective actions after an operation detects *Listeria* spp. or *Listeria monocytogenes* in an environmental sample. We also received general comments that requested we shorten and simplify the guidance. As a result, we removed section III (''General Sprout Production,'' as it appeared in the January 2017 draft guidance) because most of the language in this section was repeated elsewhere. We also made editorial changes to improve clarity and removed certain recommendations based on impracticality. The final guidance consists of the following sections:

- Cleaning and Sanitizing;
- Agricultural Water in Sprouting Operations;
- Seeds for Sprouting;
- Environmental Monitoring; and
- Recordkeeping.

II. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 112 have been approved under OMB control number 0910–0816.

III. Electronic Access

Persons with access to the internet may obtain the guidances at *https://www.fda.gov/food/guidance-regulation-food-and-dietary-supplements/guidance-documents-regulatory-information-topic-food-and-dietary-supplements, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.* Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Dated: September 21, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–21294 Filed 9–28–23; 8:45 am]

BILLING CODE 4164–01–P

POSTAL SERVICE

39 CFR Part 111

Ballot Mail Ancillary Service Endorsements

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to amend *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) to remove Change Service Requested, Option 1, as an ancillary service endorsement option for Ballot Mail.

DATES: Submit comments on or before October 30, 2023.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *PCFederalRegister@usps.gov,* with a subject line of ''Ballot Mail Service Endorsements''. Faxed comments are not accepted.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Emily Matyas (202) 826–7157 or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: Ancillary service endorsements provide an option for mailers to instruct the Postal Service on how to treat their mail if it is determined to be undeliverable-as-addressed and to request address correction services.

The Postal Service is proposing to revise subsections 507.1.5.1 and 507.1.5.3 to remove the ''Change Service Requested'', Option1, ancillary service endorsement as an option for Ballot Mail items. Change Service Requested, Option 1 permits all mailpieces that are undeliverable as addressed to be disposed of and an address correction notice with reason for non-delivery is provided to the mailer. The Election and Government Mail Services group made the policy decision to never allow any identifiable Ballot Mail piece that is undeliverable as addressed to be disposed of by the Postal Service. Instead, Ballot Mail that is undeliverable as addressed must be forwarded to the voter if a Change of Address notice is on file or returned to the election office that sent the Ballot Mail.

The Postal Service is proposing to implement this change effective January 21, 2024.

We believe this proposed revision will provide customers with a more efficient mailing experience.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

500 Additional Mailing Services

* * * * *

507 Mailer Services

1.0 Treatment of Mail

* * * * *

1.5 Treatment for Ancillary Services by Class of Mail

1.5.1 First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail

Undeliverable-as-addressed First-Class Mail (including postcards), USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail pieces are treated under Exhibit 1.5.1, with these additional conditions:

* * * * *

e. ''Change Service Requested'' is not permitted for the following:

[Revise item e by adding a new item e4 to read as follows:

* * * * *

4. ''Change Service Requested'', Option 1, is not valid for Ballot Mail.

* * * * *

Exhibit 1.5.1 Treatment of Undeliverable First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial and Priority Mail

Mailer endorsement	USPS treatment of UAA pieces
* * * * *	
Change Service Requested.	

Mailer endorsement	USPS treatment of UAA pieces
* * * * *	
* * * * *	
Restrictions (for Options 1 and 2).	The following restrictions apply:

[Revise the ''Change Service Requested'' ''Restrictions'' section by adding a new number 3 to read as follows:]

3. ''Change Service Requested'', Option 1, is not valid for Ballot Mail.

* * * * *

1.5.3 USPS Marketing Mail and Parcel Select Lightweight

Undeliverable-as-addressed (UAA) USPS Marketing Mail and Parcel Select Lightweight pieces are treated as described in Exhibit 1.5.3, with these additional conditions:

* * * * *

[Revise the text of item c to read as follows:]

c. The endorsement ''Change Service Requested'' is not permitted for the following:

1. USPS Marketing Mail or Parcel Select Lightweight pieces containing hazardous materials under 601.8.0. USPS Marketing Mail or Parcel Select Lightweight pieces containing hazardous materials must bear the endorsement ''Address Service Requested,'' ''Forwarding Service Requested,'' or ''Return Service Requested.''

2. ''Change Service Requested'', Option 1, is not valid for Ballot Mail.

* * * * *

Exhibit 1.5.3 Treatment of Undeliverable USPS Marketing Mail and Parcel Select Lightweight

Mailer endorsement	USPS treatment of UAA pieces
* * * * *	
''Change Service Requested'' [1 4]. Option 1.	
* * * * *	
Restrictions: The following restrictions apply:.	
* * * * *	

[Revise the ''Change Service Requested'' Option 1 ''Restrictions'' section by adding a new number 3 to read as follows:]

3. ''Change Service Requested'', Option 1, is not valid for Ballot Mail.

* * * * *

Colleen Hibbert-Kapler,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2023–21318 Filed 9–28–23; 8:45 am]

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FEDERAL COMMUNICATIONS COMMMISSION

47 CFR Parts 2, 25, 74, 78, 90, 97, and 101

[ET Docket No. 23–120; FCC 23–26; FR ID 163738]

Implementation of the Final Acts of the 2015 World Radio Communication Conference

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes implementation of certain allocation decisions from the Final Acts of the World Radiocommunication Conference 2015 (*WRC–15 Final Acts*) concerning portions of the radio spectrum between 5330.5 kHz and 29.5 GHz, other spectrum allocation changes, and related updates to the Commission's service rules.

DATES: Interested parties may file comments on or before October 30, 2023; and reply comments on or before November 28, 2023. All filings must refer to ET Docket No. 23–120.

ADDRESSES: Comments may be submitted, identified by ET Docket No. 23–120, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the Commission's Electronic Comment Filing System (ECFS): *https://apps.fcc.gov/ecfs/. See Electronic Filing of Documents to Rulemaking Proceedings,* 63 FR 24121 (1998).
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

• Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy*.

Alternative formats are available for people with disabilities (braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Patrick Forster of the Office of Engineering and Technology, Policy and Rules Division, Spectrum Policy Branch, at (202) 418–7061 or *Patrick.Forster@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in ET Docket No. 23–120; FCC 23–26, adopted on April 18, 2023, and released on April 21, 2023. The full text of this document is available for public inspection online at *https://docs.fcc.gov/public/attachments/FCC-23-26A1.pdf*.

Paperwork Reduction Act. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Initial Regulatory Flexibility Analysis. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the proposals addressed in this NPRM. The full IRFA is found in Appendix C at *https://docs.fcc.gov/public/attachments/FCC-23-26A1.pdf*. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the NPRM, and they should have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the RFA.

Ex Parte Rules—Permit but Disclose. Pursuant to § 1.1200(a) of the Commission's rules, this Notice of Proposed Rulemaking (NPRM) shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Synopsis

In the Notice of Proposed Rulemaking (NPRM), the Commission proposes to: (1) implement certain WRC–15 allocation decisions not previously addressed; (2) make other allocation changes that are not related to WRC–15 implementation; and (3) revise parts 2, 25, 74, 78, 90, 97, and 101 of the rules to reflect the proposed allocation changes. Proposals that are not related to WRC–15 implementation are: (1) restricting the use of the mobile-satellite service (Earth-to-space) in the frequency bands designated for use by the Automatic Identification System (AIS 1–4) to non-Federal space station reception of AIS messages; (2) deleting the broadcasting service allocation from the 700 MHz band; (3) updating the rules to recognize that the transition period for the reallocation of the 18.3–19.3 GHz band from the fixed service to the fixed-satellite service (space-to-Earth) has concluded; and (4) removing eight inactive call signs from § 2.106(d)(62) (footnote NG62 or NG62).

A. Satellite Issues

1. Protection of Search and Rescue Satellites Receiving in the 406–406.1 MHz Band

The Commission proposes to adopt new § 2.106(c)(265) (footnote US265 or US265) for the 403–410 MHz band to protect satellite-based search and rescue systems operating in the 406–406.1 MHz band from out-of-band emissions originating from operations in adjacent bands, as provided in Resolution 205 (Rev.WRC–19). The Commission's rules authorize Emergency Position-Indicating Radio Beacon, Emergency Locator Transmitter, and Personal Locator Beacon transmissions to Federal Government satellites that carry Search and Rescue Satellite (SARSAT) receivers. The National Oceanic and Atmospheric Administration (NOAA) operates polar orbiting and geostationary satellites that carry payloads providing distress alert and location information to appropriate public safety rescue authorities for maritime, aviation, and land users in distress. 47 CFR 80.209(a)(7), 80.905(a)(3)(vi), (a)(4)(vi), 80.1077, 80.1129(c), 87.139(h), 87.147(e), 87.173(b), 87.187(m), 87.195(a), 87.199, 95.2963, and 95.2971. Proposed US265 would prohibit new frequency assignments within the 405.9–406.0 MHz and 406.1–406.2 MHz bands under the mobile and fixed services allocations. Assignment (of a radio frequency or radio frequency channel) is defined as an authorization given by an administration for a radio station to use a radio frequency or radio frequency channel under specified conditions. 47 CFR 2.1(c). In general, the assignment of

frequencies and frequency bands must be in accordance with the Allocation Table. 47 CFR 2.102(a). The radio frequency devices authorized pursuant to 47 CFR part 15 are not based on allocated radio services. Note 1 to paragraph (e) of § 2.105. The term ''short-range radiocommunication devices'' is intended to cover radio transmitters that have low capability of causing interference to other radio equipment. In general, such devices are permitted to operate on a non-interference, no-protection-from-interference basis. Simple licensing requirements may be applied, *e.g.* general licenses or general frequency assignments or even license exemption. *See* Recommendation ITU–R SM.1538–1, Annex 1, p. 2 at 2 (Definition of short-range radiocommunication devices). Medical Device Radio Communications (MedRadio) devices, similar to part 15 devices, are short-range devices.

For radiosonde applicants that seek to operate in the 403–410 MHz band, proposed US265 would require that the frequency drift characteristics of radiosondes be taken into account when selecting operating frequencies above 405 MHz to avoid transmitting in the 406–406.1 MHz band and that all practical steps be taken to avoid the operating frequency drifting close to 406 MHz. The 403–406 MHz band is a Federal/non-Federal shared band that is allocated to the meteorological aids service (radiosonde) on a primary basis. The Commission licenses radiosondes under its part 5 experimental radio service; however, there are currently no active licenses for non-Federal radiosonde use of the 403–406 MHz band. 47 CFR part 5. Proposed US265 seeks to address concerns that aggregate levels of electromagnetic interference, including interference from transmissions in adjacent frequency bands, may present a risk of satellite emergency transmissions being undetected, or delayed in reception, or lead to reduced accuracy of the calculated locations. The Commission seeks comment on this proposal.

Currently, non-Federal use of the fixed and mobile services in the adjacent 403–406 MHz and 406.1–410 MHz bands is permitted pursuant to 47 CFR 2.106(c)(13), (55), (64) (footnotes US13, US55, and US64, or US13, US55, and US64). Footnote US64 states, *inter alia,* that the 401–406 MHz band is allocated to the mobile, except aeronautical mobile, service on a secondary basis, and that non-Federal use is limited to medical device radiocommunication service (MedRadio) operations. MedRadio is an ultra-low power radio service that is associated with medical implant devices and medical body-worn devices. MedRadio stations are licensed-by-rule and operate in accordance with part 95, subpart I of the rules, so the Commission does not issue individual station licenses for MedRadio devices. Hence, the Commission tentatively concluded that continued operations of MedRadio devices are consistent with proposed US265. The Commission seeks comment on this tentative conclusion.

Section 2.106(c)(13) (footnote US13 or US13) and § 90.265 of the Commission's rules make 48 channels available for transmitting hydrological and meteorological data (Hydro channels), including channels with center frequencies 406.125 MHz and 406.175 MHz. The Commission proposes to revise §§ 2.106 and 90.265 to state that, after the effective date of final rules in this proceeding, no assignments for the frequencies 406.1250 MHz and 406.1750 MHz will be made, and that existing stations may continue to operate indefinitely on these frequencies as they are currently licensed. As of April 18, 2023, 63 licenses in the Commission's Universal Licensing System authorized operation in the 406.125–406.175 MHz band. This NPRM does not modify those licenses. By no longer issuing licenses for the frequencies 406.1250 MHz and 406.1750 MHz, the Commission would ensure consistency with proposed new footnote US265 and protect satellite-based search and rescue systems operating in the adjacent 406–406.1 MHz band from out-of-band emissions originating on those frequencies. The Commission seeks comment on these proposals.

Section 2.106(c)(55) (footnote US55 or US55) provides that the Commission may authorize public safety use of 40 Federal Interoperability Channels that are designated in section 4.3.16 of the *NTIA Manual.* However, because section 4.3.16 of the *NTIA Manual* does not include frequencies within the 406.1–406.2 MHz sub-band, it is not necessary to amend the language of this footnote. Finally, the Commission proposes to update § 2.106(c)(117) (footnote US117 or US117) to properly reflect that non-Federal use of the 406.1–410 MHz band is limited to the radio astronomy service and as provided by footnotes US13 and US55, as shown in the proposed rules. This proposed revision of US117 was overlooked when the Commission originally adopted US55. The Commission seeks comment on these proposals, including any estimates of the costs and benefits of implementation.

2. Space Research Service (Space-to-Space) in the 410–420 MHz Band

The Commission proposes to allocate the 410–420 MHz band to the space research service (space-to-space) on a secondary basis for non-Federal use, and add § 2.106(b)(268) (footnote 5.268) to the non-Federal Table of Allocations in the 410–420 MHz band, which would limit use of this added space research service allocation to communication links with an orbiting, manned space vehicle and require compliance with a power flux-density limit at the Earth's surface to protect existing and future licensees. Footnote 5.268 limits the power flux-density (PFD) at the surface of the Earth to maximum specified values (-153 to -148 dBW/m^2 in a 4 kilohertz bandwidth) depending on the angle of arrival and prohibits stations in the space research service from claiming protection from, or constraining the use and development of, stations of the fixed and mobile services. 47 CFR 2.106(b)(268). The 410–420 MHz band is currently allocated to the fixed, mobile, and space research (space-to-space) services on a primary basis for Federal use; the 413–419 MHz segment is allocated to the mobile, except aeronautical mobile, service on a secondary basis, with non-Federal use limited to part 95 MedRadio operations. 47 CFR 2.106(a). The National Aeronautics and Space Administration (NASA) operates systems in support of extra-vehicular activity communications for the manned space program and other space related efforts in this band. The systems are used for communications between crew members and for relaying telemetry data to the main spacecraft. Non-Federal use is limited to MedRadio operations, hydrological/meteorological data, and public safety. The Commission expects that the additional non-Federal use would be similar to the current Federal uses and would occur because of increasing space exploration by private companies. The Commission requests comment on these proposals, including information on the costs and benefits.

3. Global Flight Tracking for Civil Aviation (1087.7–1092.3 MHz)

The Commission proposes to allocate the 1087.7–1092.3 MHz band to the aeronautical mobile-satellite (route) service (Earth-to-space) on a primary basis, limited to space station reception of automatic dependent surveillance-broadcast (ADS–B) emissions from aircraft. If adopted, the Commission would implement this proposed allocation by referencing § 2.106(b)(328)(ii) (footnote 5.328AA) in

the 960–1164 MHz band within the U.S. Table. The 960–1164 MHz band is currently allocated to the aeronautical mobile (route) and aeronautical radionavigation services on a primary basis for Federal and non-Federal use. Aircraft currently transmit ADS–B signals to report their position to ground-based receivers in a 4.6-megahertz wide band centered on 1090 MHz under the existing aeronautical mobile (route) service allocation. This proposed allocation would extend reception of ADS–B signals beyond terrestrial line-of-sight to facilitate reporting the position of aircraft located anywhere in the world. The Commission tentatively concluded that providing for satellite reception of ADS–B signals would ensure the efficient management of air traffic in oceanic, polar, and remote airspace. Further, the Commission tentatively concluded that this proposed allocation would support the Federal Aviation Administration's rules regarding aircraft location information. The Commission also proposes to add new paragraph (a)(13) to § 25.202 of the Commission's rules to permit the licensing of space stations that can receive ADS–B emissions from aircraft. The Commission seeks comment on these proposals.

Further, as recommended by the National Telecommunications and Information Administration (NTIA), the Commission proposes to add new paragraph (78) to § 2.106(c) (footnote US78 or US78) to the 960–1164 MHz band to recognize Federal use by military Identification Friend or Foe (IFF) systems on center frequencies 1030/1090 MHz. The Commission proposes this use would be subject to the condition that harmful interference would not be caused to the aeronautical radionavigation service or the aeronautical mobile (R) service. Finally, the Commission proposes to revise § 2.106(c)(224) (footnote US224 or US224) to require that Federal systems utilizing spread spectrum techniques for terrestrial communication, navigation, and identification in the 960–1215 MHz band be authorized on the condition that harmful interference not be caused to the aeronautical mobile (R) and aeronautical radionavigation services in the 960–1164 MHz band, military IFF systems on center frequencies 1030/1090 MHz, aeronautical mobile-satellite (R) service (Earth-to-space) in the 1087.7–1092.3 MHz band, and the aeronautical radionavigation and radionavigation-satellite (space-to-Earth) (space-to-space) services in the 1164–1215 MHz band. The Commission requests comment on these proposals, including whether any modifications to the part 87 rules for aviation services would be necessary to implement these proposals.

4. Satellite Uplinks in the 7190–7250 MHz Band

As recommended by NTIA, the Commission seeks comment on whether to provide additional spectrum on a secondary basis for non-Federal Earth-to-space operations in the Earth exploration-satellite service in the 7190–7250 MHz band and space research service in the 7190–7235 MHz band. In the U.S. Table, the 7190–7250 MHz band is allocated to the Earth exploration-satellite (Earth-to-space) and fixed services, both on a primary basis and exclusively for Federal use. The 7190–7235 MHz portion of the band is also allocated on a primary basis to the space research service (Earth-to-space) exclusively for Federal use.

Consistent with NTIA's recommendation, should the Commission make these Federal uplink bands available for non-Federal use on a secondary basis for Earth-to-space operations in the Earth exploration-satellite and space research services, respectively, by adding the provisions of proposed §§ 2.106(c)(460) and (460)(i) (footnote US460 or US460; footnote US460A or US460A) to the 7190–7235 MHz band and footnote US460A to the 7235–7250 MHz band? Footnote US460 would provide a secondary non-Federal allocation in the 7190–7235 MHz band for the space research service (Earth-to-space) and would prohibit emissions from such systems intended for deep space. Footnote US460A would allocate the 7190–7250 MHz band to the Earth exploration-satellite service (Earth-to-space) on a secondary basis for non-Federal use, limited to tracking, telemetry, and command (TT&C) for the operation of spacecraft. The restrictions in footnotes US460 and US460A are based on international §§ 2.106(b)(460), (460)(i) (footnotes 5.460 and 5.460A, or 5.460 and 5.460A). In both cases, should the Commission explicitly require that authorizations be subject to a case-by-case electromagnetic compatibility (EMC) analysis and approval? Qualcomm urged the Commission to seek comment on whether such allocations would ''remain in line with the Commission's present spectrum priorities,'' noting that the Chairwoman has identified the 7–15 GHz spectrum range, and some stakeholders, other administrations, and regional organizations are considering the 7190–7250 MHz band for the next generation wireless technology. The Commission requests comment on these recommendations.

5. Earth Exploration-Satellite Service (Active) in the 9.2–9.3 GHz and 9.9–10.4 GHz Bands

The Commission seeks comment on allocating the 9.2–9.3 GHz and 9.9–10.4 GHz bands to the Earth exploration-satellite service (active) on a primary basis for Federal use and on a secondary basis for non-Federal use, subject to §§ 2.106(b)(474)(i), (b)(474)(ii), (b)(474)(iii), and proposes § 2.106(c)(474) (footnotes 5.474A, 5.474B, 5.474C, and US474D, or 5.474A, 5.474B, 5.474C, and US474D, respectively). Footnote US474D is based on the text in § 2.106(b)(474)(iv) (international footnote 5.474D or 5.474D), except that the radiolocation service is not included in the 9.2–9.3 GHz band because this allocation has secondary status in both the Federal and non-Federal Tables, and the radionavigation service is not included in the 9.9–10 GHz band because that allocation only applies in the countries listed in § 2.106(b)(478) (footnote 5.478 or 5.478). This would implement WRC–15's expansion of the current worldwide Earth exploration-satellite service (active) allocation in the 9.3–9.9 GHz band by allocating 600 megahertz of additional spectrum in the adjacent bands to this service, which would support the growing demand for greater radar image resolution to satisfy global environmental monitoring requirements. Spaceborne radars operating in this band support a large number of scientific and geoinformation applications, such as disaster relief and humanitarian aid, land use, and large area coastal surveillance. The Commission requests comment on these potential allocations.

In the U.S. Table, the 9.2–9.3 GHz band is allocated to the maritime radionavigation service on a primary basis and to the radiolocation service on a secondary basis for Federal and non-Federal use, subject to §§ 2.106(b)(472), (b)(474), (c)(110), and (e)(59) (footnotes 5.472, 5.474, US110, and G59, or 5.472, 5.474, US110, and G59, respectively. The 9.9–10.5 GHz band is allocated to the radiolocation service on a primary basis for Federal use and on a secondary basis for non-Federal use. The 9.975–10.025 GHz band is also allocated to the meteorological-satellite service on a secondary basis for use by weather radars. 47 CFR 2.106(b)(479). The 10–10.5 GHz and 10.45–10.5 GHz bands are allocated to the amateur and amateur-satellite services on a secondary basis, respectively. Five footnotes apply to the 10–10.5 GHz band: 47 CFR

2.106(b)(479), (c)(108), (c)(128), (d)(50), and (e)(32) (footnotes 5.479, US108, US128, NG50, and G32, or 5.479, US108, US128, NG50, and G32, respectively). The 2023 World Radiocommunication Conference will consider whether to identify the 10–10.5 GHz for International Mobile Telecommunications (IMT) in ITU Region 2.

The four footnotes on which the Commission seeks comment on adding to the 9.2–9.3 GHz and 9.9–10.4 GHz bands would limit their use to systems in the Earth exploration-satellite service (active) requiring a necessary bandwidth greater than 600 megahertz that cannot be fully accommodated within the 9.3–9.9 GHz band (5.474A (§ 2.106(b)(474)(i))); protect the radio astronomy service in the 10.6–10.7 GHz band from unwanted emissions (5.474B (§ 2.106(b)(474)(ii))); protect the space research service (space-to-Earth) in the 8.4–8.5 GHz band from unwanted emissions (5.474C (§ 2.106(b)(474)(iii))); and require that the Earth exploration-satellite service (active) not cause harmful interference to, or claim protection from, the maritime radionavigation service in the 9.2–9.3 GHz band and the radiolocation service in the 9.9–10.4 GHz band (proposed US474D (§ 2.106(c)(474)). Qualcomm urged the Commission to seek comment on whether the proposed allocations would ''remain in line with the Commission's present spectrum priorities,'' noting that the Chairwoman has identified the 7–15 GHz spectrum range, and some stakeholders, other administrations, and regional organizations are considering the 9.2–9.3 GHz and 9.9–10.4 GHz bands for the next generation wireless technology.

The Commission also proposes to revise § 2.106(c)(128) (footnote US128 or US128) to support the Department of Defense's development of pulsed emission systems in the 10–10.5 GHz band. Currently, US128 prohibits pulsed emissions in the 10–10.5 GHz band, except for weather radars on board meteorological satellites in the 10–10.025 GHz sub-band. Under footnote US128, the amateur, the amateur-satellite, and the non-Federal radiolocation services, which shall not cause harmful interference to the Federal radiolocation service, are the only non-Federal services permitted in the 10–10.5 GHz band, and the non-Federal radiolocation service is limited to survey operations as specified in § 2.106(c)(108) (footnote US108 or US108). NTIA states that the Department of Defense requires flexibility for development of pulsed systems in this band to meet future system needs. The Commission seeks comment on all of the proposals in this section. In addition, it requests comment on whether the 9.2–9.8 GHz and 9.9–10.4 GHz bands should be allocated to the Earth exploration-satellite service (active) on a primary basis for non-Federal use, so the status of those non-Federal allocations would mirror the status of the Federal Earth exploration-satellite service (active) allocations in those bands.

6. Revision of the 18.142–19.3 GHz, 28.5–29.1 GHz, and 29.25–29.5 GHz Bands

In this section, the Commission makes proposals and seeks comments on allocation and service rule changes that would clarify the status of grandfathered fixed stations in the 18.3–19.3 GHz band and permit a heavier use of the fixed-satellite service (FSS) in the 18.142–18.3 GHz, 28.5–29.1 GHz, and 29.25–29.5 GHz bands.

First, the Commission proposes to amend § 2.106(c)(139) (footnote US139 or US139) by stating that, in the 18.3–19.3 GHz band, earth station licensees in the fixed-satellite service (space-to-Earth) may require that licensees of grandfathered stations in the fixed service cease operations, consistent with the provisions in § 101.95 of the Commission's rules. The Commission makes this proposal because, in the 18.3–19.3 GHz band, there is no fixed service allocation and there are no longer any primary grandfathered fixed stations. Specifically, § 101.85 states that fixed service operations in the 18.3–18.58 GHz and 18.58–19.3 GHz bands that remain co-primary under the provisions of §§ 74.502(c), 74.602(g), 78.18(a)(4), and 101.147(r) will continue to be co-primary with the fixed-satellite service (FSS) until dates that have long since passed, *i.e.,* these transition periods have concluded. In addition, § 101.95(a), which concerns the sunset provisions for the 18.3–19.3 GHz band, includes the following: Once the relocation rules sunset, an FSS licensee may require the incumbent to cease operations, provided that the FSS licensee intends to turn on a system within interference range of the incumbent, as determined by TIA Bulletin 10–F or any standard successor. FSS licensee notification to the affected FS (fixed service) licensee must be in writing and must provide the incumbent with no less than six months to vacate the spectrum. After the six-month notice period has expired, the FS licensee must turn its license back into the Commission, unless the parties have entered into an agreement that allows the FS licensee to continue to operate on a mutually agreed upon basis. 47 CFR 101.85(b)(1) and (2), 101.95(a). Consequently, the Commission also proposes to revise §§ 74.502(c), 74.602(g), 78.18(a)(4), and 101.147(r) of the rules in order to update the introductory text and the frequencies that are available to applicants of aural broadcast auxiliary stations, television broadcast auxiliary stations, cable television relay service, and fixed microwave services, respectively. These proposals are consistent with the Commission's previous decision concerning the re-channelization of the 17.7–18.3 GHz and 19.3–19.7 GHz bands for fixed microwave services under part 101 of the rules. While most of the proposed changes remove channels that are no longer allocated to the fixed service, in one instance the Commission proposes to add replacement channels, *i.e.,* the Commission proposes to replace the 12 frequency pairs in § 74.502(c)(1)(i) of the rules with the 5 megahertz channels from § 101.147(r)(5) in the proposed rules. The Commission also proposes to update §§ 101.95(a) and 101.147(a) to remove expired text and to remove six sections concerning expired policies governing fixed service relocation from the 18.3–19.3 GHz band, *i.e.,* §§ 101.83 through 101.91 and 101.97. The Commission requests comment on these proposals.

Second, the Commission proposes to revise § 2.106(d)(62) (footnote NG62 or NG62) to permit the fixed stations authorized pursuant to the 10 listed call signs to continue to operate indefinitely on a secondary basis. The Commission adopted footnote NG62 when it deleted the primary fixed and mobile service allocations from the 28.5–29.1 GHz and 29.25–29.5 GHz bands. Footnote NG62 states that, in the 28.5–29.1 GHz and 29.25–29.5 GHz bands, stations in the fixed-satellite service shall not cause harmful interference to, or claim protection from, stations in the fixed service operating under 18 listed call signs; however, only 10 of these call signs are currently active. The Commission noted that WRC–19 and the Commission's rules permit earth stations in motion (ESIMs) to operate in these frequency bands. The proposed secondary status of these fixed stations would recognize that ESIMs, which may operate anywhere without coordination with the fixed stations, may cause intermittent interference to these fixed stations. The Commission requests comment on these proposals.

Third, the Commission requests comment on whether it should raise the non-Federal secondary fixed-satellite service (space-to-Earth) allocation in the

18.142–18.3 GHz band (158 megahertz) to primary status, *i.e.,* co-equal with the non-Federal primary fixed service allocation in the band. If adopted, this upgrade of allocation status would provide receiving earth stations with interference protection from later-licensed fixed stations that are used for part 74 and part 101 Multichannel Video Programming Distributor (MVPD) and part 78 cable television relay service (CARS) operations that operate in accordance with the proposed rules in this section. The Commission tentatively concluded this should result in significantly heavier earth station use of this band in the future, thereby enhancing spectrum efficiency. As background, the Commission noted that there are seven part 78 CARS licenses, which are located in three California counties and Maui Island, Hawaii; and 35 grandfathered fixed service licenses that authorize operations in the 18.142–18.3 GHz band. In contrast, as of August 26, 2022, there are 222 licenses for earth station reception in the 18.142–18.3 GHz band and there are 414 pending applications for earth stations that would receive in the band.

Finally, the Commission requests comment on whether it should allow the continued operation of existing CARS licenses that authorize operation in the 18.3–18.304 GHz and 18.3–18.334 GHz bands in Puu Nianiau, Hawaii, and Placerville, California, respectively, and revise § 2.106(c)(139) (footnote US139 or US139) to codify that these fixed station operations may continue to operate indefinitely under the existing conditions.

7. Deletion of the Radionavigation-Satellite Service From the 149.9–150.05 MHz and 399.9–400.05 MHz Bands

Consistent with the *WRC–15 Final Acts,* the Commission proposes to delete the radionavigation-satellite service allocation from the 149.9–150.05 MHz and 399.9–400.05 MHz bands. WRC–15 deleted this allocation because it had expired pursuant to footnote 5.224B. In the U.S. Table, the 149.9–150.05 MHz and 399.9–400.05 MHz bands are Federal/non-Federal shared bands that are allocated to the mobile-satellite service (Earth-to-space) and the radionavigation-satellite service on a primary basis. This proposal would make these two bands—totaling 300 kilohertz—exclusively allocated to the mobile-satellite service (Earth-to-space). The Commission seeks comment on this proposal.

B. Terrestrial Issues

1. Amateur Service in the 5351.5–5366.5 kHz Band

The Commission proposes to allocate the 5351.5–5366.5 kHz band to the Amateur Radio Service on a secondary basis and seeks comment on whether the amateur service should keep the existing channels they use in the 60 meter band. During WRC–15, the International Telecommunication Union (ITU) allocated this band to the amateur service on a secondary basis in all ITU Regions. The ITU generally set the maximum radiated power at 15 watts (W) equivalent isotropically radiated power (EIRP), which is equivalent to 9.15 W effective radiated power (ERP).

These frequencies are currently part of the 5275–5450 kHz band, which is allocated for Federal/non-Federal shared use, on a primary basis, to the fixed service and, on a secondary basis, to the mobile except aeronautical mobile service. Section 2.106(c)(23) (footnote US23 or US23) currently provides a secondary allocation to the amateur service on five discrete channels—each with a maximum bandwidth of 2.8 kilohertz and centered on the frequencies 5332, 5348, 5358.5, 5373, and 5405 kHz. While footnote US23 does not have an explicit bandwidth limit, it limits use of these frequencies to specified emission types and designators, which in effect limit the bandwidth to a maximum of 2.8 kilohertz, *i.e.* phone (2K80J3E), data (2K80J2D), RTTY [narrow-band direct-printing telegraphy emissions having specified designators] (60H0J2B), and CW [International Morse code telegraphy emissions having specified designators] (150HA1A). 47 CFR 2.101, 2.102, 2.106(c)(23), 97.3(c)(1), (c)(7). However, pursuant to Commission rules, stations in the amateur service may transmit on these frequencies with a maximum radiated power of 100 W ERP—over ten times more powerful than WRC–15's EIRP limit. Footnote US23 and § 97.313(i) of the Commission's rules state that amateur service use of these frequencies is restricted to a maximum ERP of 100 watts ''PEP'' and that no station may transmit with an ERP exceeding 100 watts ''PEP,'' respectively. These requirements are inconsistent with the definitions in part 97 of the Commission's rules, *i.e.,* PEP is the average power supplied to the antenna transmission line by a transmitter during one RF cycle at the crest of the modulation envelope taken under normal operating conditions and ERP is the product of the power supplied to the antenna and its gain relative to a half-wave dipole in a given direction. 47 CFR 97.3(b)(2), (3), (9). The Commission's review found that these rules were intended to limit the radiated power to 100 watts ERP based on the 2006 agreement between NTIA and the American Radio Relay League, the National Association for Amateur Radio (ARRL) and, to minimize confusion, the Commission refers to this limit in its discussion. Petition for Rule Making of ARRL, RM–11353, at Exhibit A (filed Oct. 10, 2006); 47 CFR 97.313(k), (l). NTIA recommended that the Commission conform footnote US23 to the *WRC–15 Final Acts* by allocating the 5351.5–5366.5 kHz band to the amateur service on a secondary basis, removing the four existing amateur channels outside this proposed new amateur band, and restricting the maximum radiated power of amateur operations in the band to 15 W EIRP. Federal agencies use the larger 5275–5450 kHz band for services that include military, law enforcement, disaster relief, emergency, and contingency operations. Most non-Federal operations in the 60 meter band are part 90 industrial business pool land mobile operations.

In 2017, ARRL filed a petition for rulemaking asking the Commission to allocate the 5351.5–5366.5 kHz band to the amateur service on a secondary basis, as provided in the *WRC–15 Final Acts,* and also to retain the four amateur service channels that are outside this band (*i.e.,* the frequencies 5332 kHz, 5348 kHz, 5373 kHz, and 5405 kHz). Further, ARRL supports using the same operating rules in terms of permitted emission types, power level, and access by class of amateur licensee for the new contiguous allocation that is currently applied to the existing five amateur channels. Essentially, ARRL supports extending the provisions of footnote US23 and § 97.303(h) of the Commission's rules that apply to the existing five amateur channels, including the 100 watt ERP limit, to the new allocation. Therefore, ARRL disagrees with applying the 15 W EIRP limit suggested in the *WRC–15 Final Acts.* While most commenters supported implementation of the ARRL Petition as filed, some commenters disagreed with various aspects of the ARRL Petition as addressed below. Some even argue that the entire 60 meter band should be opened for amateur use at higher power because they are not aware of any complaints of harmful interference. Finally, the Commission noted that Canada has essentially implemented the same rules as ARRL has requested.

The Commission proposes to modify footnote US23 and part 97 of its rules

to implement the new international allocation at 5351.5–5366.5 kHz, but also seeks comment on whether it should maintain the existing four channels at 5332, 5348, 5373, and 5405 kHz that are outside of the new allocation. Specifically, the Commission proposes to make the following amendments to part 97 of the rules: (1) replace the five center frequencies with the 5351.5–5366.5 kHz band in § 97.301(b) through (d) and 97.305(c); (2) simplify the frequency sharing requirements in § 97.303(h) by stating that amateur stations transmitting in the band must not cause harmful interference to, and must accept interference from, stations authorized by the United States and other nations in the fixed service; and other nations in the mobile except aeronautical mobile service; and (3) revise the emission standard in § 97.307(f)(14) by removing unneeded text, including the unneeded upper sideband and Morse telegraphy restrictions (as requested by ARRL in its petition).

Under this proposal, amateurs would have access to a contiguous 15 kilohertz-wide band. Allowing amateurs to use these internationally-harmonized frequencies could facilitate amateur communications across international borders. The Commission noted however, there is significant opposition from the amateur community regarding the removal of the four discrete channels at 5332, 5348, 5373, and 5405 kHz from amateur use, as requested by NTIA. An argument could be made that amateur operations should remain on harmonized international frequencies because of the long-range propagation of these frequencies. Further, amateur licensees also have access to other high frequency (HF) bands at 3 and 7 MHz, so the Commission believed there should be sufficient spectrum options for amateur operations without deviating from the internationally harmonized spectrum. However, some commenters contended that the amateur community has been using the four discrete channels at 5332, 5348, 5373, and 5405 kHz that fall outside of the proposed band for some time and argue that these channels are important in responding to disasters. The Commission seeks comment on this issue and what spectrum in the 60 meter band should be made available for amateur use.

Alternatively, the Commission seeks comment on whether the four discrete channels at 5332, 5348, 5373, and 5405 kHz should be kept available for limited amateur use under certain conditions or only in response to disasters. For example, could the channels be authorized for amateur use during disasters as part of the Military Auxiliary Radio System (MARS) or SHAred RESources High Frequency Radio (SHARES) programs where participating amateur licensees can operate on Federal channels in coordination with the Department of Defense or Department of Homeland Security, respectively? Should the Commission permit amateur stations participating in established emergency communications programs such as the Amateur Radio Emergency Service (ARES) or the Radio Amateur Civil Emergency Service (RACES) to use the additional channels or operate at higher power during emergencies and drills? Could the discrete channels be maintained under lower power or under other conditions that might reduce their potential to interfere with primary allocation services in the band? If so, the Commission invites comment on whether the existing discrete channels should continue to be used for secondary amateur use and under what rules and conditions.

While many amateur commenters argued they should be permitted access to more of the 60 meter band because they are not aware of any complaints of interference arising from their current operations, the Commission noted there are a variety of important non-Federal and Federal fixed and mobile except aeronautical mobile service operations in the band where even rare instances of interference could endanger public safety. Therefore, the Commission tentatively finds that the spectrum requirements for the amateur service in the 5005–5450 kHz band should be met by the WRC–15 amateur band and that only the four existing amateur channels at 5332, 5348, 5373, and 5405 kHz that are outside this band should be considered in this proceeding. Nevertheless, the Commission seeks comment on this idea. Commenters that support expanded access to the 60 meter band should provide information regarding how heavily the five amateur frequencies in the 5275–5450 kHz band are used and why additional amateur spectrum in this frequency range is needed if the Commission adopts the proposed allocation.

Power. ARRL sought a maximum radiated power limit of 100 W ERP for the new secondary amateur allocation and to maintain the existing maximum radiated power limit of 100 W ERP for the existing discrete channels at 5332, 5348, 5373, and 5405 kHz. ARRL argued that such an implementation would support amateurs engaged in emergency and disaster relief communications to more reliably, flexibly, and capably conduct those communications; that imposing a maximum radiated power limit of 15 W EIRP would render the band unsuitable for emergency and public service communications; that the lower power limit is insufficient to permit reliable communications on the paths that are most critical; and that this reduced radiated power limit is not necessary to protect primary services from interference.

Harold Ross Lambert and Michael Goltz argued that the power limit should be increased to 500 W to deal with propagation challenges in disaster communications; and Milton K. Miller supports 500 W power with the use of more efficient antennas. Phillip Finkle urged for at least 200 W of power designated as output power instead of ERP because ERP is difficult to measure. Janis Carson initially expressed concern over allowing U.S. amateurs to operate at much higher powers than the international standard, suggesting a compromise power of 30 W because digital modes are very effective at lower power and world-wide communications can be achieved at lower power levels like 5 W. However, in later comments Ms. Carson supported the ARRL proposal to allow 100 W for ''more reliable communications in an environment of high static crashes.'' William Springer urged the adoption of the 15 W power limit in the *WRC-15 Final Acts* because he contends that newer digital modes are more efficient, and so weaker signals are not an impediment to achieving communication. Finally Hugh Bahar cautioned that deviating from limits agreed to at the international level is unwise and could lead to other countries ignoring the standards and could be viewed as an act of bad faith.

Several commenters also argued for more flexibility in the types of antennas permitted in the 60 meter band. Scott Wright and George Dominick contend that antennas with gain greater than 0 dBi should be allowed since they are essential for efficient communications during an emergency. In contrast, Mathew Pitts does not support increasing the permitted antenna gain and contends the power should range between 15 and 30 W.

The Commission seeks comment on the appropriate power limit for the new internationally harmonized amateur allocation and for the discrete channels if they are maintained for amateur use. The Commission tentatively concludes that limiting the radiated power of amateur stations to 15 W EIRP would reduce the potential of harmful interference to incumbent primary operations, while maintaining

consistency with the power limits established internationally for amateur operations in this band. However, the majority of the amateur comments are opposed to lower power limits and neighboring countries in Region 2 permit power levels higher than 15 W EIRP. The Commission agrees with certain commenters that the long-range propagation capabilities of these frequencies is likely to allow efficient communications at low-power levels, but there may be instances where more power is needed to deal with propagation challenges.

The Commission acknowledges that valid arguments may exist for adopting power limits above 15 W up to 100 W. For example, § 2.106(b)(133)(ii) (footnote 5.133B or 5.133B), which addresses this international allocation, outlines a power limit of 20 W EIRP for Mexico and 25 W EIRP for all Latin American countries and for many Caribbean countries/territories. Further, a review of the Commission's licensing database indicates other licenses with higher allocation status operating at power levels ranging from 15 W up to as high as 5000 W. Accordingly, the Commission seeks to build a more comprehensive record on the appropriate power limit for 60-meter band amateur operations. Interested parties seeking a power limit above the proposed 15 W EIRP limit should explain how much power would be appropriate, and how higher power limits would affect other operations in the 60-meter band? For example, should the Commission allow the higher power allowed in other countries in ITU Region 2, such as Mexico and most Caribbean countries? Should the Commission allow higher power during times of emergency drills/response or as part of programs where Amateur licensees support Federal emergency response? Should higher power only be permitted during disasters or drills supporting disaster relief? If, going forward, the discrete channels are permitted to be used by amateur operators under certain parameters or during disasters, what power limits should apply and when? What other conditions or considerations should be applied to amateur use of the 60 meter band?

Further, the Commission seeks comment on how the limit should be specified in the rules. Specifically, should the power limit be defined in terms of EIRP to be consistent with the WRC–15 recommendation, or through some other means, such as ERP or transmitter output power? While some commenters argue that radiated power limits are difficult to calculate for certain types of antennas, the Commission finds that amateur licensees are supposed to study the radio arts and should be capable of determining their operating power. The Commission seeks comment on the pros and cons of various power limit alternatives and which method is best for the 60 meter band. If the Commission adopts a radiated power limit, it does not propose to adopt antenna limitations because a radiated power limit would ensure that excess power is not used, and flexibility in antenna choices may lead to spectrum efficiencies because the signal will propagate in its intended direction. Nevertheless, the Commission seeks comment on whether, and, if so what, antenna limitations are appropriate for amateur operations in this band using these different power limit measurements and how the Commission's decision could affect how these frequencies would be used by the amateur community.

Channelization. ARRL and several commenters argued that the new allocation should not designate sub-bands for various modes of operation to enable maximum flexibility to avoid interference with other operations. Janis Carson contended channelization is wasteful because narrowband modes can operate at less than three kilohertz and flexibility is need to address prevailing circumstances. She added that a maximum bandwidth of 500 Hertz should be allowed in the new contiguous allocation. Charles Powell supported the ARRL request and contends that amateur equipment is not designed to maintain a high level of frequency accuracy and that such a design change would make equipment prohibitively expensive. However, William Springer argued that the new allocation should be channelized into five 3 kilohertz channels to promote efficiency and avoid overlapping transmissions. Benjamin Russell also supported five discrete channels, but suggests creating ten overlapping channels for narrowband carrier wave (CW) use. Ronald F Henry contends that channelization would facilitate sharing with Federal users and, given there are several bands available for amateur use, the ''60 Meter band must be set aside for emergency communications as the primary use and as such, channelization is desired to protect both the primary and secondary user.''

The Commission proposes that the 5351.5–5366.5 kHz band should not be channelized or have sub-bands. Due to the wide variety of potential applications and the need to protect other communications, dividing the band into channels may lead to inefficient spectrum use. However, the Commission agrees with commenters who state that some wideband digital emissions could create spectrum sharing problems, and so the Commission proposes a maximum emission bandwidth of 2.8 kilohertz for amateur operations in this band. The Commission seeks comment on this proposal and whether there are other limits or technical rule changes necessary to ensure reliable and efficient use of this band.

Station Class and Permitted Uses. ARRL and certain other commenters stated that only amateurs with a General Class license or higher should be allowed to use the new allocation, because Technician Class license holders may not have the experience to operate consistent with the interference avoidance protocols needed for the band. William Springer opposed the allowance of CW transmissions in the band because he contends that they are outdated and inefficient, but supported the use of any commonly-available, unencrypted digital transmission mode limited by a maximum occupied bandwidth that fits within the channel. Scott Wright supported the allowance of CW, arguing that several CW emissions can fit within a small amount of bandwidth. Janis Carson and Hugh Bahar opposed the allowance of automatically controlled digital stations and wideband digital modes that could block the entire allocation and could cause interference without busy channel detection. In her reply comments, Ms. Carson added that the new allocation should be used for narrowband digital or CW and that the discrete channels, along with the one 3 kHz channel contained within the new allocation, could remain for use of single-side band (SSB) voice or wider digital modes. Ms. Carson also suggested not allowing any automatic store and forward email systems in the 60 meter band, claiming that these systems have a high potential to cause interference due to the ''hidden transmitter'' effect, where the offshore initiating station cannot hear a primary user in the skip zone of the shore based relay station. Finally, W. Lee McVey contended that the 60 meter band rules should ensure that only publicly documented digital codes operate in the band to prohibit encrypted communications.

Consistent with the current amateur class requirements for the 60 meter band (*see* 47 CFR 97.301), the Commission proposes to permit amateurs holding a General Class license or higher to use the 5351.5–5366.5 kHz band. The Commission agrees with commenters

that the long-range propagation characteristics in the band combined with the need to protect important safety of life communications by Federal operations potentially requires a higher level of radio knowledge to ensure the spectrum is properly shared. The Commission seeks comment on this proposal. Further, if the Commission maintains the four existing discrete channels at 5332, 5348, 5373, and 5405 kHz outside of the international allocation, the Commission proposes that those channels also be permitted for General Class licensees or higher. The Commission seeks comment on this proposal and other alternatives. For example, if the Commission adopts the new allocation and keeps the existing discrete channels, should different amateur classes be permitted on the new allocation versus the discrete channels? If the Commission allows station classes below General Class licensees to access the 60 meter band, what conditions should be applied? For example, should certain classes be permitted to operate in certain modes (*i.e.,* voice vs. digital) or at certain times (*e.g.,* only in response to a disaster)? Given the limited spectral resource at issue, commenters supporting more flexible use should support their comments with suggested safeguards or ideas on how the spectrum can be efficiently used without interfering with primary allocation operations.

At this time, the Commission does not propose to preclude CW or any other radio technique currently permitted in the 60 meter band because the record is inconclusive on whether certain modulation methods should be prohibited. However, the Commission notes that the amateur rules generally preclude encrypted operations, and so seeks comment on whether the 60 meter band rules need to be clearer on what types of digital operations are permitted. As discussed above, the Commission proposes to limit the emission bandwidth to 2.8 kilohertz, which may limit some techniques. The Commission seeks comment on these proposals and encourages the amateur community to attempt to reach consensus on what radio techniques should be permitted, given the limited amount of spectrum available, the need to use this spectrum efficiently, and the importance of ensuring that the primary users are protected from harmful interference.

2. Amateur Service in the 420–450 MHz Band

Based on a request from NTIA, the Commission proposes to update the coordination and contact information in § 2.106(c)(270) (footnote US270 or US270) for the areas wherein the peak envelope power of an amateur station operating in the 420–450 MHz (70 cm) band is generally limited to 50 watts, and to revise the cross reference to footnote US270 in § 97.313(f) of the rules. The Commission requests comment on these proposals.

3. Maritime On-Board Communication Stations (457/467 MHz)

The Commission proposes to revise § 2.106(c)(288) (footnote US288 or US288) to make a limited number of narrowband channels from the international channel plan adopted at WRC–15 available for use by on-board communication stations. An on-board communication station is a low-powered mobile station in the maritime mobile service used for internal communications on board a ship, or between a ship and its lifeboats and life-rafts during lifeboat drills or operations, or for communication within a group of vessels being towed or pushed, as well as for line handling and mooring instructions. The Commission's proposals are intended to benefit the maritime industry by making available a subset of the internationally-harmonized narrowband channels for on-board communication use while ships are in U.S. territorial waters. The Commission's overarching goals in making these proposals are to minimize the potential for intermittent and harmful interference to stations in the land mobile and fixed services that operate on the same or adjacent frequencies to on-board communication stations and to promote more efficient and effective use of the available spectrum, while fully meeting the operational requirements of ship station licensees for on-board communication stations.

Sections 2.106(c)(288) and 80.373(g) of the rules make seven internationally-harmonized frequencies in the 457.5125–457.5875 MHz and 467.5125–467.5875 MHz bands (150 kilohertz) and five other frequencies available for use by on-board communication stations in U.S. territorial waters (275 kilohertz in total). Specifically, § 80.373(g)(1) states that the frequencies 457.525 MHz, 457.550 MHz, 457.575 MHz, and 457.600 MHz may be used by on-board repeater stations and by unpaired on-board mobile stations (*i.e.,* single-frequency simplex operation) and that four frequencies in the 467.7375–467.8375 MHz band (*i.e.,* 467.750, 467.775, 467.800, and 467.825 MHz) may be used by on-board mobile stations in two-frequency repeater systems. In addition, § 80.373(g)(2) states that, where needed, equipment designed for 12.5 kilohertz channel spacing using the additional frequencies 457.5375 MHz, 457.5625 MHz, 467.5375 MHz, and 467.5625 MHz (*i.e.,* channels 12, 14, 22, and 24) may be introduced for on-board communications; however, no use of these channels is currently authorized.

WRC–15 revised the international channel plan for on-board communication stations to provide for 6.25 kilohertz channels. This new channel plan, shown in table 1 below, specifies 40 frequencies that support the use of equipment designed to operate on 25, 12.5, or 6.25 kilohertz channels. Channels 1, 2, 3, 12, 14, 22, and 24 as shown in Table 1 indicate the internationally-harmonized channels that are currently available for use under the Commission's rules.

Table 1: International vs. United States Channels for On-Board Communication Stations

International Footnote 5.287 and Recommendation ITU-R M.1174-4												US1-US3 (25/25 kHz with the lower channel harmonized)
Lower Band Channels						Upper Band Channels						
25 kHz		12.5 kHz		6.25 kHz		25 kHz		12.5 kHz		6.25 kHz		
Ch	MHz	Ch	MHz	Ch	MHz	Ch	MHz	Ch	MHz	Ch	MHz	
1	457.525	-	-	102	457.515625	4	467.525	-	-	202	467.515625	US1 consists of channel 1 and a channel centered on 467.750 MHz
		11	457.5250	111	457.521875			21	467.5250	211	467.521875	
				112	457.528125					212	467.528125	
		12	457.5375	121	457.534375			22	467.5375	221	467.534375	
2	457.550			122	457.540625	5	467.550			222	467.540625	US2 consists of channel 2 and a channel centered on 467.775 MHz
		13	457.5500	131	457.546875			23	467.5500	231	467.546875	
				132	457.553125					232	467.553125	
		14	457.5625	141	457.559375			24	467.5625	241	467.559375	
3	457.575			142	457.565625	6	467.575			242	467.565625	US3 consists of channel 3 and a channel centered on 467.800 MHz
		15	457.5750	151	457.571875			25	467.5750	251	467.571875	
				152	457.578125					252	467.578125	
		-	-	161	457.584375			-	-	261	467.584375	

To permit the deployment of more spectrally efficient narrowband equipment, the Commission proposes to revise footnote US288 by authorizing on-board communication stations to use 12.5 and 6.25 kilohertz channels in the territorial waters of the United States as described in the following paragraphs.

First, the Commission proposes to revise footnote US288 to authorize: (1) nationwide use of channels 11–15, which are internationally-harmonized 12.5 kilohertz channels, for on-board repeater stations and on-board mobile stations used for single-frequency simplex operation; (2) on-board mobile stations to operate nationwide on five non-harmonized frequencies that are 10.225 megahertz higher in frequency than the center frequency of their associated on-board repeater stations (frequencies shown in table 2, below); and (3) on-board repeater stations to operate on channels 12 and 14 and associated on-board mobile stations operating on channels 22 and 24, respectively, in the Territorial Sea of the United States and at coastal ports and the inland ports of Baton Rouge, Houston, and Portland, and on the waterways and at other ports between these inland ports and the ocean. The Commission requests comment on these proposals. The Commission's proposal would make two new frequencies (467.7625 and 467.7875 MHz) available for use by on-board communication stations and would authorize the use of eight existing frequencies with twice the power spectral density (PSD) in their narrower authorized bandwidth, which increases the potential for harmful interference to nearby stations of the fixed and land mobile services that also operate on these frequencies. PSD is defined as the ''power of an emission in the frequency domain, such as in terms of ERP or EIRP, stated per unit bandwidth, *e.g.,* watts/MHz.'' 47 CFR 22.99. Currently, the part 80 rules limit the ERP of on-board communication stations in the 456–468 MHz band to 2 watts in a 25 kilohertz channel (80 mW/kHz). If the Commission authorizes the same ERP in 6.25 kilohertz, then the PSD would double (160 mW/kHz), thereby increasing the potential for harmful interference over the signal's bandwidth because the signal's power is concentrated over a narrower bandwidth. The Commission intends to address the PSD issue in any subsequent service rules proceeding.

TABLE 2—CENTER FREQUENCIES FOR 12.5 KILOHERTZ ON-BOARD PAIRED CHANNELS

Channel	On-board repeater station	On-board mobile station
US11	Channel 11—457.5250 MHz	467.7500 MHz.
US12	Channel 12—457.5375 MHz	467.7625 MHz.
US13	Channel 13—457.5500 MHz	467.7750 MHz.
US14	Channel 14—457.5625 MHz	467.7875 MHz.
US15	Channel 15—457.5750 MHz	467.8000 MHz.

Second, the Commission proposes to revise footnote US288 to authorize on-board repeater stations and on-board mobile stations used for single-frequency simplex operation to operate on the 6.25 kilohertz channels 102, 121, 122, 141, and 142 and for on-board mobile stations operating with a repeater station to operate on the 6.25 kilohertz channels 202, 221, 222, 241, and 242, respectively, in the Territorial Sea of the United States and at coastal ports and the inland ports of Baton Rouge, Houston, and Portland, and on the waterways and at other ports

between these inland ports and the ocean. The Commission requests comment on this proposal, noting that eight of these channels overlap the 12.5 kilohertz channels that the Commission is proposing in the previous paragraph (*i.e.,* channels 12, 14, 22, and 24) and that channels 102 and 202 are between low-power part 90 channels. The Commission requests comment on these proposals, noting that the use of 6.25 kilohertz channels with center frequencies that are offset from the frequencies used by stations in the fixed and land mobile services by 6.25 kilohertz are expected to enhance spectrum sharing. The Commission also solicits comment on whether it should authorize the use of channel pairs 121/221 on those waterways in the contiguous United States that the Department of Transportation has designated as part of America's Marine Highway.

The Commission also proposes to revise the text of footnote US288 to state that, in the territorial waters of the United States, § 2.106(b)(287) (footnote 5.287 or 5.287) applies, except that on-board communication stations must transmit only on the listed frequencies and must operate as specified herein. On-board repeater stations and mobile stations used for single-frequency simplex operation currently may transmit only in the band 457.5125–457.6125 MHz. The Commission proposes that the preferred frequencies for repeater systems would be 457.525 MHz (channel 1 or 11), 457.5375 MHz (channel 12), 457.550 MHz (channel 2 or 13), 457.5625 MHz (channel 14), 457.575 MHz (channel 3 or 15), and 457.600 MHz paired, respectively, with 467.750 MHz, 467.7625 MHz, 467.775 MHz, 467.7875 MHz, 467.800 MHz, and 467.825 MHz; and the preferred frequencies for single-frequency operations would be those designated as channels 1–3, 11–15, and 121. Finally, the Commission proposes that use of channels 122, 141, and 142 and channel pairs 12/22, 14/24, 102/202, 121/221, 122/222, 141/241, and 142/242 would be authorized at coastal ports and the inland ports of Houston, Baton Rouge, and Portland, and along the waterways and at other ports between these inland ports and the ocean; however, on-board communication stations would not be able to transmit on these channels while in port and not underway or preparing to get underway. The Commission seeks comment on these proposals.

Finally, the Commission proposes to revise § 2.106(c)(287) (footnote US287 or US287) by allocating the 457.5125–457.6125 MHz, 467.512375–467.518625 MHz, 467.55625–467.56875 MHz, 467.53125–467.54375 MHz, and 467.7375–467.8375 MHz bands (231.25 kilohertz) to the maritime mobile service on a primary basis, by limiting the use of these allocations to on-board communication stations, and by stating that, in these frequency bands, stations in the fixed and land mobile services may not claim protection from interference caused by on-board communication stations operating in accordance with US288 and that on-board communication stations may not claim protection from stations in the fixed and land mobile services. Alternatively, the Commission requests comment on whether existing part 90 Private Land Mobile and part 95 Personal Radio Service licensees operating in the 456–470 MHz band should be afforded any protection from interference caused by on-board communication stations operating in accordance with US288. The Commission observes that the 456–470 MHz band is allocated to the mobile service on a primary basis in all ITU Regions, and requests comment on the public interest benefits of both the Commission's proposal and the alternative.

4. Deletion of the Broadcasting Service From the 700 MHz Band

The Commission proposes to delete the broadcasting service allocation in the 698–758 MHz, 775–788 MHz, and 805–806 MHz bands from the non-Federal Table and to revise § 2.106(d)(159) (footnote NG159 or NG159) by removing the reference to part 74, subpart G. Between 1998 and 2010, the Commission transitioned the 698–806 MHz (700 MHz) band from television broadcasting use (*i.e.,* TV channels 52–69) to public safety and mobile broadband uses. Currently, the entire 700 MHz band is allocated to the fixed and mobile services on a primary basis, but the broadcasting service allocation still remains in the 698–758 MHz, 775–788 MHz, and 805–806 MHz portions on a primary basis, and licensees in those bands have the flexibility to provide broadcast services, if they choose. The Commission requests comment on the Commission's proposal. In the event that the Commission deletes the broadcast allocation as proposed, the Commission seeks comment on whether, and which, part 27 service rules should be modified to reflect the change (*e.g.,* §§ 27.3 (Other Applicable Rule Parts), 27.4 (Terms and Definitions), 27.10 (Regulatory Status), 27.13 (License Period), 27.50 (Power Limits and Duty Cycle), and 27.55 (Power Strength Limits)).

5. Deletion of Footnote NG155

The Commission proposes to remove § 2.106(d)(155) (footnote NG155 or NG155) from the rules because the frequencies and frequency bands to which it applies are not authorized in part 80 of the Commission's rules. The ITU has identified the frequencies that can generally be used worldwide for intership communications. Thus, the Commission tentatively concludes that there is no need to specify any other frequencies for intership use. The Commission notes that, in the Second Report and Order in PR Docket No. 92–257 that added footnote NG155 to the Commission's rules, the Commission declined to adopt the proposed rules for part 80 regarding maritime sharing of private land mobile radio frequencies for intership communications. The Commission requests comments on this proposal.

C. Other Matters

As a result of discussions regarding the protection of near-Earth operations of deep space missions, WRC–15 added a provision in Article 4 of the Radio Regulations (No. 4.24) to describe the use of space research service (deep space) allocations. Similarly, the Commission proposes to add a new paragraph to § 2.102 of the Commission's rules to clarify that: ''Space research systems intended to operate in deep space may also use the space research service (deep space) allocations, with the same status as those allocations, when the spacecraft is near the Earth, such as during launch, early orbit, flying by the Earth and returning to the Earth.'' The Commission requests comment on this proposal.

The Commission proposes to amend § 2.1(c) of the rules to add or revise the definitions for the terms ''meteorological aids land station,'' ''meteorological aids mobile station,'' and ''coordinated universal time'' in accordance with the WRC–15 adopted definitions. The Commission also proposes to add a definition for the term ''frequency band'' based on that term's ITU definition. The Commission seeks comment on these definitions.

The Commission proposes to amend § 2.105(d) of the rules by stating that the footnote references which appear in the United States Table below the allocated service or services apply to more than one of the allocated services, or to the whole of the allocation concerned, and that the footnote references which appear to the right of the name of a service are applicable only to that particular service. See the proposed

rules for the proposed text of § 2.105(d)(6) through (8), where the text in paragraph (d)(6) has been moved to paragraph (d)(8).

In response to NTIA's recommendation that the Commission add a subset of the international footnotes that identify spectrum for International Mobile Telecommunications (IMT) to the non-Federal Table, the Commission directed the Chief, Office of Engineering and Technology to maintain a ''Mobile Broadband Spectrum in the United States'' file on the ''Radio Spectrum Allocation'' web page. The Commission requests comment on whether this file meets the public's needs.

Digital Equity and Inclusion. Finally, the Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, the Commission seeks comment on how its proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority.

Ordering Clauses

Accordingly, it is ordered that, pursuant to sections 1, 4(i), 4(j), 7, 301, 303(c), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157, 301, 303(c), 303(f), and 303(r), this Notice of Proposed Rulemaking is hereby adopted.

It is further ordered pursuant to § 1.407 of the Commission's rules, 47 CFR 1.407, that the petition for rulemaking filed by the American Radio Relay League, Incorporated, Amendment of Parts 2 and 97 of the Commission's Rules Regarding Implementation of the Final Acts of the World Radiocommunication Conference (Geneva, 2015) to Allocate the Band 5351.5–5366.5 kHz to the Amateur Radio Service, RM–11785, is granted in part.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Order and Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 2

Radio services, Spectrum allocations.

47 CFR Part 25

Satellite communications (satellites, earth stations).

47 CFR Part 74

Experimental radio, auxiliary, special broadcast, and other program distributional services.

47 CFR Part 78

Cable television relay service.

47 CFR Part 90

Private land mobile radio services.

47 CFR Part 97

Amateur radio service.

47 CFR Part 101

Fixed microwave radio services.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

Proposed Rules

For the reasons stated in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 2, 25, 74, 78, 90, 97, and 101 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Amend § 2.1(c) by revising the definition for ''Coordinated Universal Time (UTC)'', and adding, in alphabetical order, definitions for ''Frequency band (Band)'', ''Meteorological aids land station'', and ''Meteorological aids mobile station'', to read as follows:

§ 2.1 Terms and definitions.

* * * * *

(c) * * *

Coordinated Universal Time (UTC). Time scale, based on the second (SI), as described in Resolution 655 (WRC–15). (RR)

* * * * *

Frequency band (Band). A contiguous set of frequencies lying between two specified limiting frequencies. A frequency band is characterized by two values which define its position in the frequency spectrum, for example, its lower and upper limiting frequencies.

* * * * *

Meteorological aids land station. A station in the meteorological aids service not intended to be used while in motion. (RR)

Meteorological aids mobile station. A station in the meteorological aids service intended to be used while in motion or during halts at unspecified points. (RR)

* * * * *

■ 3. Amend § 2.102 by adding paragraph (i) to read as follows:

§ 2.102 Assignment of frequencies.

* * * * *

(i) Space research systems intended to operate in deep space may also use the space research service (deep space) allocations, with the same status as those allocations, when the spacecraft is near the Earth, such as during launch, early orbit, flying by the Earth and returning to the Earth.

■ 4. Amend § 2.105 by revising paragraph (d)(6) and adding paragraphs (d)(7) and (8) to read as follows:

§ 2.105 United States Table of Frequency Allocations.

* * * * *

(d) * * *

(6) The footnote references which appear in the United States Table below the allocated service or services apply to more than one of the allocated services, or to the whole of the allocation concerned.

(7) The footnote references which appear to the right of the name of a service are applicable only to that particular service.

(8) The coordinates of latitude and longitude that are listed in United States, Federal, and non-Federal footnotes are referenced to the North American Datum of 1983 (NAD 83).

* * * * *

■ 5. Amend § 2.106 by:

■ a. Revising paragraph (a) Allocation Table pages 22, 24, 26 through 30, 32, 45, 47, and 48;

■ b. Revising paragraphs (c)(13) and (23);

■ c. Adding paragraph (c)(78);

■ d. Revising paragraphs (c)(117), (128), (139), and (224);

■ e. Adding paragraph (c)(265);

■ f. Revising paragraphs (c)(270), (287), and (288);

■ g. Adding paragraphs (c)(460), (460)(i), and (474);

■ h. Revising paragraph (d)(62);

■ i. Removing and reserving paragraph (d)(155); and

■ j. Revising paragraph (d)(159).

The revisions and additions read as follows:

§2.106 Table of Frequency Allocations.

* * * * *

BILLING CODE 6712–01–P

137.825-138 SPACE OPERATION (space-to-Earth) 5.203C METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Fixed Mobile except aeronautical mobile (R) Mobile-satellite (space-to-Earth) 5.208A 5.208B 5.209 5.204 5.205 5.206 5.207 5.208			137.825-138 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Mobile-satellite (space-to-Earth) US319 US320 5.208		
138-143.6 AERONAUTICAL MOBILE (OR) 5.210 5.211 5.212 5.214	138-143.6 FIXED MOBILE RADIOLOCATION Space research (space-to-Earth)	138-143.6 FIXED MOBILE Space research (space-to-Earth) 5.207 5.213	138-144 FIXED MOBILE	138-144	
143.6-143.65 AERONAUTICAL MOBILE (OR) SPACE RESEARCH (space-to-Earth) 5.211 5.212 5.214	143.6-143.65 FIXED MOBILE RADIOLOCATION SPACE RESEARCH (space-to-Earth)	143.6-143.65 FIXED MOBILE SPACE RESEARCH (space-to-Earth) 5.207 5.213			
143.65-144 AERONAUTICAL MOBILE (OR) 5.210 5.211 5.212 5.214	143.65-144 FIXED MOBILE RADIOLOCATION Space research (space-to-Earth)	143.65-144 FIXED MOBILE Space research (space-to-Earth) 5.207 5.213	G30		
144-146 AMATEUR AMATEUR-SATELLITE 5.216			144-148	144-146 AMATEUR AMATEUR-SATELLITE	Amateur Radio (97)
146-148 FIXED MOBILE except aeronautical mobile (R)	146-148 AMATEUR 5.217	146-148 AMATEUR FIXED MOBILE 5.217		146-148 AMATEUR	
148-149.9 FIXED MOBILE except aeronautical mobile (R) MOBILE-SATELLITE (Earth-to-space) 5.209 5.218 5.218A 5.219 5.221	148-149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.209 5.218 5.218A 5.219 5.221		148-149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) US319 US320 US323 US325 5.218 5.219 G30	148-149.9 MOBILE-SATELLITE (Earth-to-space) US320 US323 US325 5.218 5.219 US319	Satellite Communications (25)
149.9-150.05 MOBILE-SATELLITE (Earth-to-space) 5.209 5.220			149.9-150.05 MOBILE-SATELLITE (Earth-to-space) US319 US320		
150.05-153 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149	150.05-154 FIXED MOBILE 5.225		150.05-150.8 FIXED MOBILE US73 G30	150.05-150.8 US73	

* * * * *

				157.45-161.575 FIXED LAND MOBILE NG28 NG111 NG112 5.226 NG6 NG70 NG124 NG148	Public Mobile (22) Remote Pickup (74D) Maritime (80) Private Land Mobile (90)
			161.575-161.625	161.575-161.625 MARITIME MOBILE 5.226 US52 NG6 NG17	Public Mobile (22) Maritime (80)
			5.226 US52 161.625-161.9625	161.625-161.775 LAND MOBILE NG6 5.226	Public Mobile (22) Remote Pickup (74D) Low Power Auxiliary (74H)
				161.775-161.9625 MOBILE except aeronautical mobile US266 NG6	Maritime (80) Private Land Mobile (90)
5.226	5.226		US266	5.226	
161.9375-161.9625 FIXED MOBILE except aeronautical mobile Maritime mobile-satellite (Earth-to-space) 5.228AA	161.9375-161.9625 FIXED MOBILE Maritime mobile-satellite (Earth-to-space) 5.228AA		161.9625-161.9875 AERONAUTICAL MOBILE (OR) (AIS 1) MARITIME MOBILE (AIS 1) MOBILE-SATELLITE (Earth-to-space) (AIS 1)		Satellite Communications (25) Maritime (80)
5.226	5.226		5.228C US52		
161.9625-161.9875 FIXED MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.228F	161.9625-161.9875 AERONAUTICAL MOBILE (OR) MARITIME MOBILE MOBILE-SATELLITE (Earth-to-space)	161.9625-161.9875 MARITIME MOBILE Aeronautical mobile (OR) 5.228E Mobile-satellite (Earth-to-space) 5.228F		161.9875-162.0125 MOBILE except aeronautical mobile	Maritime (80)
5.226 5.228A 5.228B	5.228C 5.228D	5.226	161.9875-162.0125	5.226	
161.9875-162.0125 FIXED MOBILE except aeronautical mobile Maritime mobile-satellite (Earth-to-space) 5.228AA	161.9875-162.0125 FIXED MOBILE Maritime mobile-satellite (Earth-to-space) 5.228AA				
5.226 5.229	5.226				
162.0125-162.0375 FIXED MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.228F	162.0125-162.0375 AERONAUTICAL MOBILE (OR) MARITIME MOBILE MOBILE-SATELLITE (Earth-to-space)	162.0125-162.0375 MARITIME MOBILE Aeronautical mobile (OR) 5.228E Mobile-satellite (Earth-to-space) 5.228F	162.0125-162.0375 AERONAUTICAL MOBILE (OR) (AIS 2) MARITIME MOBILE (AIS 2) MOBILE-SATELLITE (Earth-to-space) (AIS 2)		Satellite Communications (25) Maritime (80)
5.226 5.228A 5.228B 5.229	5.228C 5.228D	5.226	5.228C US52		
162.0375-174 FIXED MOBILE except aeronautical mobile	162.0375-174 FIXED MOBILE		162.0375-173.2 FIXED MOBILE US8 US11 US13 US55 US73 US300 US312 G5	162.0375-173.2 US8 US11 US13 US55 US73 US300 US312	Remote Pickup (74D) Private Land Mobile (90)
			173.2-173.4	173.2-173.4 FIXED Land mobile	Private Land Mobile (90)
			173.4-174 FIXED MOBILE G5	173.4-174	
5.226 5.229	5.226 5.230 5.231				

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272-273 SPACE OPERATION (space-to-Earth) FIXED MOBILE		G27 G100		
5.254				
273-312 FIXED MOBILE		322-328.6 FIXED MOBILE	322-328.6	
5.254				
312-315 FIXED MOBILE Mobile-satellite (Earth-to-space) 5.254 5.255		US342 G27 328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258	US342	Aviation (87)
315-322 FIXED MOBILE				
5.254				
322-328.6 FIXED MOBILE RADIO ASTRONOMY		335.4-399.9 FIXED MOBILE	335.4-399.9	
5.149				
328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258				
5.259				
335.4-387 FIXED MOBILE				
5.254				
387-390 FIXED MOBILE Mobile-satellite (space-to-Earth) 5.208A 5.208B 5.254 5.255		G27 G100 399.9-400.05 MOBILE-SATELLITE (Earth-to-space) US319 US320		Satellite Communications (25)
390-399.9 FIXED MOBILE				
5.254				
399.9-400.05 MOBILE-SATELLITE (Earth-to-space) 5.209 5.220				
400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261 5.262		400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261		Page 26

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401-402 METEOROLOGICAL AIDS SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile			401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) US64 US384	401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US64 US384	MedRadio (95I)
402-403 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile			402-403 METEOROLOGICAL AIDS (radiosonde) US70 EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) US64 US384	402-403 METEOROLOGICAL AIDS (radiosonde) US70 Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US64 US384	
403-406 METEOROLOGICAL AIDS Fixed Mobile except aeronautical mobile 5.265			403-406 METEOROLOGICAL AIDS (radiosonde) US70 US64 US265 G6	403-406 METEOROLOGICAL AIDS (radiosonde) US70 US64 US265	
406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.265 5.266 5.267			406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.266 5.267 US265		Maritime (EPIRBs) (80V) Aviation (ELTs) (87F) Personal Radio (95)
406.1-410 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149 5.265			406.1-410 FIXED MOBILE RADIO ASTRONOMY US74 US13 US55 US117 US265 G5 G6	406.1-410 RADIO ASTRONOMY US74 US13 US55 US117 US265	Private Land Mobile (90)
410-420 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (space-to-space) 5.268			410-420 FIXED MOBILE SPACE RESEARCH (space-to-space) 5.268 US13 US55 US64 G5	410-420 Space research (space-to-space) 5.268 US13 US55 US64	Private Land Mobile (90) MedRadio (95I)

420-430 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271			420-450 RADIOLOCATION G2 G129 5.286 US64 US87 US230 US269 US270 US397 G8	420-450 Amateur US270 5.282 5.286 US64 US87 US230 US269 US397	Private Land Mobile (90) MedRadio (95I) Amateur Radio (97)
430-432 AMATEUR RADIOLOCATION 5.271 5.274 5.275 5.276 5.277	430-432 RADIOLOCATION Amateur 5.271 5.276 5.277 5.278 5.279				
432-438 AMATEUR RADIOLOCATION Earth exploration-satellite (active) 5.279A 5.138 5.271 5.276 5.277 5.280 5.281 5.282	432-438 RADIOLOCATION Amateur Earth exploration-satellite (active) 5.279A 5.271 5.276 5.277 5.278 5.279 5.281 5.282				
438-440 AMATEUR RADIOLOCATION 5.271 5.274 5.275 5.276 5.277 5.283	438-440 RADIOLOCATION Amateur 5.271 5.276 5.277 5.278 5.279				
440-450 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271 5.284 5.285 5.286					
450-455 FIXED MOBILE 5.286AA 5.209 5.271 5.286 5.286A 5.286B 5.286C 5.286D 5.286E			450-454 5.286 US64 US87	450-454 LAND MOBILE 5.286 US64 US87 NG112 NG124	Remote Pickup (74D) Low Power Auxiliary (74H) Private Land Mobile (90) MedRadio (95I)
			454-456	454-455 FIXED LAND MOBILE US64 NG32 NG112 NG148	Public Mobile (22) Maritime (80) MedRadio (95I)
455-456 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	455-456 FIXED MOBILE 5.286AA MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	455-456 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E		455-456 LAND MOBILE US64	Remote Pickup (74D) Low Power Auxiliary (74H) MedRadio (95I)

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459-460 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	459-460 FIXED MOBILE 5.286AA MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	459-460 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	459-460	US64 US287 US288 NG32 NG112 NG124 NG148	
460-470 FIXED MOBILE 5.286AA Meteorological-satellite (space-to-Earth) 5.287 5.288 5.289 5.290			460-470 Meteorological-satellite (space-to-Earth) US73 US209 US287 US288 US289	460-462.5375 FIXED LAND MOBILE US209 US289 NG124	Private Land Mobile (90)
				462.5375-462.7375 LAND MOBILE US289	Personal Radio (95)
				462.7375-467.5375 FIXED LAND MOBILE US73 US209 US287 US288 US289 NG124	Maritime (80) Private Land Mobile (90)
				467.5375-467.7375 LAND MOBILE US287 US288 US289	Maritime (80) Personal Radio (95)
				467.7375-470 FIXED LAND MOBILE US73 US287 US288 US289 NG124	Maritime (80) Private Land Mobile (90)
470-694 BROADCASTING	470-512 BROADCASTING Fixed Mobile 5.292 5.293 5.295	470-585 FIXED MOBILE 5.296A BROADCASTING 5.291 5.298	470-608	470-512 FIXED LAND MOBILE BROADCASTING NG5 NG14 NG66 NG115 NG149	Public Mobile (22) Broadcast Radio (TV)(73) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H) Private Land Mobile (90)
	512-608 BROADCASTING 5.295 5.297	585-610 FIXED MOBILE 5.296A BROADCASTING RADIONAVIGATION 5.149 5.305 5.306 5.307		512-608 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H)
	608-614 RADIO ASTRONOMY Mobile-satellite except aeronautical mobile-satellite (Earth-to-space)	610-890 FIXED MOBILE 5.296A 5.313A 5.317A BROADCASTING	608-614 LAND MOBILE (medical telemetry and medical telecommand) RADIO ASTRONOMY US74 US246		Personal Radio (95)

5.149 5.291A 5.294 5.296 5.300 5.304 5.306 5.311A 5.312	614-698 BROADCASTING Fixed Mobile	614-890	614-698 FIXED MOBILE NG5 NG14 NG33 NG115 NG149 698-758 FIXED MOBILE NG159 759-775 FIXED MOBILE NG34 NG159 775-788 FIXED MOBILE NG159 788-805 FIXED MOBILE NG34 NG159 805-806 FIXED MOBILE NG159 806-809 LAND MOBILE 809-849 FIXED LAND MOBILE 849-851 AERONAUTICAL MOBILE 851-854 LAND MOBILE 854-894 FIXED LAND MOBILE US116 US268	RF Devices (15) Wireless Communications (27) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H) Wireless Communications (27) LPTV and TV Translator (74G) Public Safety Land Mobile (90R) Wireless Communications (27) LPTV and TV Translator (74G) Public Safety Land Mobile (90R) Wireless Communications (27) LPTV and TV Translator (74G) Public Safety Land Mobile (90S) Public Mobile (22) Private Land Mobile (90) Public Mobile (22) Public Safety Land Mobile (90S) Public Mobile (22) Private Land Mobile (90)
694-790 MOBILE except aeronautical mobile 5.312A 5.317A BROADCASTING	5.293 5.308 5.308A 5.309 5.311A 698-806 MOBILE 5.317A BROADCASTING Fixed		
5.300 5.311A 5.312 790-862 FIXED MOBILE except aeronautical mobile 5.316B 5.317A BROADCASTING	5.293 5.309 5.311A 806-890 FIXED MOBILE 5.317A BROADCASTING		
5.312 5.319 862-890 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322	5.149 5.305 5.306 5.307 5.311A 5.320		
5.319 5.323	5.317 5.318		Page 30

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				939.5-940 FIXED LAND MOBILE US116 US268	Private Land Mobile (90)
			US116 US268 G2	940-941 FIXED MOBILE US116 US268	Personal Communications (24)
5.323	5.325	5.327			
942-960 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322 5.323	942-960 FIXED MOBILE 5.317A	942-960 FIXED MOBILE 5.317A BROADCASTING 5.320	941-944 FIXED US84 US268 US301 G2	941-944 FIXED US84 US268 US301 NG30 NG35	Public Mobile (22) Aural Broadcast Auxiliary (74E) Low Power Auxiliary (74H) Fixed Microwave (101)
			944-960	944-960 FIXED NG35	
960-1164 AERONAUTICAL MOBILE (R) 5.327A AERONAUTICAL RADIONAVIGATION 5.328 5.328AA			960-1164 AERONAUTICAL MOBILE (R) 5.327A AERONAUTICAL RADIONAVIGATION 5.328 5.328AA US78 US224		Aviation (87)
1164-1215 AERONAUTICAL RADIONAVIGATION 5.328 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.328A			1164-1215 AERONAUTICAL RADIONAVIGATION 5.328 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328A US224		
1215-1240 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.329 5.329A SPACE RESEARCH (active) 5.330 5.331 5.332			1215-1240 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G56 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) G132 SPACE RESEARCH (active) 5.332	1215-1240 Earth exploration-satellite (active) Space research (active)	
1240-1300 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.329 5.329A SPACE RESEARCH (active) Amateur 5.282 5.330 5.331 5.332 5.335 5.335A			1240-1300 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G56 SPACE RESEARCH (active) AERONAUTICAL RADIONAVIGATION 5.332 5.335	1240-1300 AERONAUTICAL RADIONAVIGATION Amateur Earth exploration-satellite (active) Space research (active) 5.282	Amateur Radio (97)
1300-1350 RADIOLOCATION AERONAUTICAL RADIONAVIGATION 5.337 RADIONAVIGATION-SATELLITE (Earth-to-space) 5.149 5.337A			1300-1350 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation G2 US342	1300-1350 AERONAUTICAL RADIONAVIGATION 5.337 US342	Aviation (87)
1350-1400 FIXED MOBILE RADIOLOCATION	1350-1400 RADIOLOCATION 5.338A		1350-1390 FIXED MOBILE RADIOLOCATION G2 5.334 5.339 US342 US385 G27 G114	1350-1390 5.334 5.339 US342 US385	
			1390-1395 5.339 US79 US342 US385	1390-1395 FIXED MOBILE except aeronautical mobile 5.339 US79 US342 US385 NG338A	Wireless Communications (27)
5.149 5.338 5.338A 5.339	5.149 5.334 5.339		1395-1400 LAND MOBILE (medical telemetry and medical telecommand) 5.339 US79 US342 US385		Personal Radio (95)

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Table of Frequency Allocations			7145-8650 MHz (SHF)		Page 45
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
7145-7190 FIXED MOBILE SPACE RESEARCH (deep space) (Earth-to-space) 5.458 5.459			7145-7190 FIXED SPACE RESEARCH (deep space)(Earth-to-space) US262 5.458 G116	7145-7190 5.458 US262	RF Devices (15)
7190-7235 EARTH EXPLORATION-SATELLITE (Earth-to-space) 5.460A 5.460B FIXED MOBILE SPACE RESEARCH (Earth-to-space) 5.460 5.458 5.459			7190-7235 EARTH EXPLORATION-SATELLITE (Earth-to-space) 5.460A 5.460B FIXED SPACE RESEARCH (Earth-to-space) 5.460 5.458 US460 US460A G134	7190-7235 5.458 US460 US460A	
7235-7250 EARTH EXPLORATION-SATELLITE (Earth-to-space) 5.460A FIXED MOBILE 5.458			7235-7250 EARTH EXPLORATION-SATELLITE (Earth-to-space) 5.460A FIXED 5.458 US460A	7235-7250 5.458 US460A	
7250-7300 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE 5.461			7250-7300 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Fixed G117	7250-8025	
7300-7375 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.461			7300-7375 FIXED FIXED-SATELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) G117		
7375-7450 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile MARITIME MOBILE-SATELLITE (space-to-Earth) 5.461AA 5.461AB			7375-7450 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile MARITIME MOBILE-SATELLITE (space-to-Earth) 5.461AA 5.461AB Mobile-satellite except maritime mobile-satellite (space-to-Earth) G117		
7450-7550 FIXED FIXED-SATELLITE (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile MARITIME MOBILE-SATELLITE (space-to-Earth) 5.461AA 5.461AB 5.461A			7450-7550 FIXED FIXED-SATELLITE (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MARITIME MOBILE-SATELLITE (space-to-Earth) 5.461AA 5.461AB Mobile-satellite except maritime mobile-satellite (space-to-Earth) G104 G117		

Table of Frequency Allocations			8.65-11.7 GHz (SHF)		Page 47
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
8.65-8.75 RADIOLOCATION 5.468 5.469			8.65-9 RADIOLOCATION G59	8.65-9 Radiolocation	Aviation (87) Private Land Mobile (90)
8.75-8.85 RADIOLOCATION AERONAUTICAL RADIONAVIGATION 5.470 5.471					
8.85-9 RADIOLOCATION MARITIME RADIONAVIGATION 5.472 5.473			US53	US53	
9-9.2 AERONAUTICAL RADIONAVIGATION 5.337 RADIOLOCATION 5.471 5.473A			9-9.2 AERONAUTICAL RADIONAVIGATION 5.337 RADIOLOCATION G2 5.473A G19	9-9.2 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation	
9.2-9.3 EARTH EXPLORATION-SATELLITE (active) 5.474A 5.474B 5.474C RADIOLOCATION MARITIME RADIONAVIGATION 5.472 5.473 5.474 5.474D			9.2-9.3 EARTH EXPLORATION-SATELLITE (active) 5.474A 5.474B 5.474C MARITIME RADIONAVIGATION 5.472 Radiolocation US110 G59 5.474 US474D	9.2-9.3 MARITIME RADIONAVIGATION 5.472 Earth exploration-satellite (active) 5.474A 5.474B 5.474C Radiolocation US110 5.474 US474D	Maritime (80) Private Land Mobile (90)
9.3-9.5 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION 5.475 SPACE RESEARCH (active) 5.427 5.474 5.475A 5.475B 5.476A			9.3-9.5 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G56 RADIONAVIGATION US475 SPACE RESEARCH (active) Meteorological aids 5.427 5.474 5.475A 5.475B US67 US71 US476A	9.3-9.5 RADIONAVIGATION US475 Meteorological aids Earth exploration-satellite (active) Radiolocation Space research (active) 5.427 5.474 US67 US71 US476A	Maritime (80) Aviation (87) Private Land Mobile (90)
9.5-9.8 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION SPACE RESEARCH (active) 5.476A			9.5-9.8 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active)	9.5-9.9 Earth exploration-satellite (active) Radiolocation Space research (active)	Private Land Mobile (90)
9.8-9.9 RADIOLOCATION Earth exploration-satellite (active) Fixed Space research (active) 5.477 5.478 5.478A 5.478B			9.8-9.9 RADIOLOCATION Earth exploration-satellite (active) Space research (active)		
9.9-10 EARTH EXPLORATION-SATELLITE (active) 5.474A 5.474B 5.474C RADIOLOCATION Fixed 5.474D 5.477 5.478 5.479			9.9-10 EARTH EXPLORATION-SATELLITE (active) 5.474A 5.474B 5.474C RADIOLOCATION 5.479 US474D	9.9-10 Earth exploration-satellite (active) 5.474A 5.474B 5.474C Radiolocation 5.479 US474D	

10-10.4	10-10.4	10-10.4	10-10.5	10-10.45	Private Land Mobile (90)
EARTH EXPLORATION-SATELLITE (active) 5.474A 5.474B 5.474C	EARTH EXPLORATION-SATELLITE (active) 5.474A 5.474B 5.474C	EARTH EXPLORATION-SATELLITE (active) 5.474A 5.474B 5.474C	EARTH EXPLORATION-SATELLITE (active) 5.474A 5.474B 5.474C	Amateur	Amateur Radio (97)
FIXED	RADIOLOCATION	FIXED	RADIOLOCATION US108 G32	Earth exploration-satellite (active)	
MOBILE	Amateur	MOBILE		5.474A 5.474B 5.474C	
RADIOLOCATION		RADIOLOCATION		Radiolocation US108	
Amateur		Amateur			
5.474D 5.479	5.474D 5.479 5.480	5.474D 5.479	5.479 US128 US474D	5.479 US128 US474D NG50	
10.4-10.45	10.4-10.45	10.4-10.45		10.45-10.5	
FIXED	RADIOLOCATION	FIXED		Amateur	
MOBILE	Amateur	MOBILE		Amateur-satellite	
RADIOLOCATION		RADIOLOCATION		Radiolocation US108	
Amateur	5.480	Amateur		US128 NG50	
10.45-10.5					
RADIOLOCATION					
Amateur					
Amateur-satellite					
5.481					
10.5-10.55	10.5-10.55		10.5-10.55		Private Land Mobile (90)
FIXED	FIXED		RADIOLOCATION US59		
MOBILE	MOBILE				
Radiolocation	RADIOLOCATION				
10.55-10.6			10.55-10.6	10.55-10.6	Fixed Microwave (101)
FIXED			FIXED	FIXED	
MOBILE except aeronautical mobile					
Radiolocation					
10.6-10.68			10.6-10.68	10.6-10.68	
EARTH EXPLORATION-SATELLITE (passive)			EARTH EXPLORATION-SATELLITE (passive)	EARTH EXPLORATION-SATELLITE (passive)	
FIXED			SPACE RESEARCH (passive)	FIXED US482	
MOBILE except aeronautical mobile				SPACE RESEARCH (passive)	
RADIO ASTRONOMY					
SPACE RESEARCH (passive)					
Radiolocation			US130 US131 US482	US130 US131	
5.149 5.482 5.482A					
10.68-10.7			10.68-10.7		
EARTH EXPLORATION-SATELLITE (passive)			EARTH EXPLORATION-SATELLITE (passive)		
RADIO ASTRONOMY			RADIO ASTRONOMY US74		
SPACE RESEARCH (passive)			SPACE RESEARCH (passive)		
5.340 5.483			US131 US246		
10.7-10.95	10.7-10.95		10.7-11.7	10.7-11.7	Satellite Communications (25) Fixed Microwave (101)
FIXED	FIXED			FIXED	
FIXED-SATELLITE (space-to-Earth) 5.441 (Earth-to-space) 5.484	FIXED-SATELLITE (space-to-Earth) 5.441			FIXED-SATELLITE (space-to-Earth)	
	MOBILE except aeronautical mobile			5.441 US131 US211 NG52	
MOBILE except aeronautical mobile					
10.95-11.2	10.95-11.2				
FIXED	FIXED				
FIXED-SATELLITE (space-to-Earth) 5.484A 5.484B (Earth-to-space) 5.484	FIXED-SATELLITE (space-to-Earth) 5.484A 5.484B				
	MOBILE except aeronautical mobile				
MOBILE except aeronautical mobile			US131 US211	NG527A	

BILLING CODE 6712–01–C

* * * * *

(c) * * *

(13)(i) US13 The following center frequencies in table 2 to paragraph (c)(13)(i), each with a channel bandwidth not greater than 12.5 kHz, are available for assignment to non-Federal fixed stations for the specific

purpose of transmitting hydrological and meteorological data in cooperation with Federal agencies, subject to the condition that harmful interference will not be caused to Federal stations:

TABLE 2 TO PARAGRAPH (C)(13)(I)

Hydro Channels (MHz)				
169.4250	170.2250	171.0250	171.8375	412.6625
169.4375	170.2375	171.0375	171.0500	412.6750
169.4500	170.2500	171.0500	171.8625	412.6875
169.4625	170.2625	171.0625	171.8750	412.7125
169.4875	170.2875	171.0875	171.9000	412.7375
169.5000	170.3000	171.1000	171.9125	412.7625
169.5125	170.3125	171.1125	171.9250	412.7750
169.5250	170.3250	171.1250	406.1250	415.1250
		171.8250	406.1750	415.1750

(ii) After [EFFECTIVE DATE OF FINAL RULE], no assignments on the frequencies 406.125 MHz and 406.175 MHz will be made, but stations with existing assignments may continue to operate on these frequencies.

* * * * *

(23) US23 The band 5351.5–5366.5 kHz (60 m band) is allocated to the amateur service on a secondary basis. Amateur service use of the 60 m band frequencies must meet the requirements in part 97 of these rules. Amateur operators using the data and RTTY emissions must exercise care to limit the length of transmissions so as to avoid causing harmful interference to Federal stations.

* * * * *

(78) US78 Military systems used for Identification, Friend or Foe (IFF) operations are authorized to operate in the band 960–1164 MHz on center frequencies 1030 MHz for interrogators and 1090 MHz for transponders on the condition that harmful interference will not be caused to the aeronautical radionavigation service (ARNS) or the aeronautical mobile (R) service (AM(R)S). These IFF systems will be evaluated on a case-by-case basis using DoD and FAA mutually agreed upon methodologies, technical criteria, and characteristics for calculating potential interference between ARNS/AM(R)S systems and systems used for military or other National defense IFF operations. This will include using DoD and FAA mutually agreed upon methodologies and criteria for considering the aggregation of civil and military systems in the 1030 and 1090 MHz bands in the evaluation.

* * * * *

(117) US117 In the band 406.1–410 MHz, the following provisions shall apply:

(i) Stations in the fixed and mobile services are limited to a transmitter output power of 125 watts, and new authorizations for stations, other than mobile stations, are subject to prior coordination by the applicant in the following areas:

(A) Within Puerto Rico and the U.S. Virgin Islands, contact Spectrum Manager, Arecibo Observatory, HC3 Box 53995, Arecibo, PR 00612. Phone: 787–878–2612, Fax: 787–878–1861, Email: *prcz@naic.edu.*

(B) Within 350 km of the Very Large Array (34°04′44″ N, 107°37′06″ W), contact Spectrum Manager, National Radio Astronomy Observatory, P.O. Box O, 1003 Lopezville Road, Socorro, NM 87801. Phone: 505–835–7000, Fax: 505–835–7027, Email: *nrao-rfi@nrao.edu.*

(C) Within 10 km of the Table Mountain Observatory (40°08′02″ N, 105°14′40″ W) and for operations only within the sub-band 407–409 MHz, contact Radio Frequency Manager, Department of Commerce, 325 Broadway, Boulder, CO 80305. Phone: 303–497–4619, Fax: 303–497–6982, Email: *frequencymanager@its.bldrdoc.gov.*

(ii) Non-Federal use is limited to the radio astronomy service and as provided by paragraphs (c)(13) and (c)(55) of this section.

* * * * *

(128) US128 In the band 10–10.5 GHz, pulsed emissions are prohibited, except for the military services and for weather radars on board meteorological satellites in the sub-band 10–10.025 GHz. The amateur service, the amateur satellite service, and the non-Federal radiolocation service, which shall not cause harmful interference to the Federal radiolocation service, are the only non-Federal services permitted in this band. The non-Federal radiolocation service is limited to survey operations as specified in paragraph (c)(108) of this section.

* * * * *

(139) US139 In the band 18.3–19.3 GHz, earth station licensees in the fixed-satellite service (space-to-Earth) may require that licensees of grandfathered stations in the fixed service cease operations in accordance with the provisions in § 101.95 of this chapter.

* * * * *

(224) US224 Federal systems utilizing spread spectrum techniques for terrestrial communication, navigation and identification may be authorized to operate in the band 960–1215 MHz on the condition that harmful interference will not be caused to the aeronautical mobile (R) and aeronautical radionavigation services in the band 960–1164 MHz, military Identification Friend or Foe (IFF) systems on center frequencies 1030/1090 MHz, aeronautical mobile-satellite (R) service (Earth-to-space) in the band 1087.7–1092.3 MHz, and the aeronautical radionavigation and radionavigation-satellite (space-to-Earth) (space-to-space) services in the band 1164–1215 MHz. These systems will be handled on a case-by-case basis. Such systems are subject to a review at the national level for operational requirements and electromagnetic compatibility prior to development, procurement or modification.

* * * * *

(265) US265 In accordance with Resolution 205 (Rev.WRC–19), the following provisions apply in the band 403–410 MHz:

(i) New frequency assignments to stations in the fixed and mobile services will not be made within the bands 405.9–406.0 MHz and 406.1–406.2 MHz.

(ii) The frequency drift characteristics of radiosondes must be taken into account when selecting their operating frequencies above 405 MHz to avoid transmitting in the band 406–406.1 MHz and all practical steps must be taken to avoid frequency drifting close to 406 MHz.

* * * * *

(270) US270 In the band 420–450 MHz, the following provisions shall apply to the amateur service:

(i) The peak envelope power of an amateur station shall not exceed 50 watts in the following areas, unless expressly authorized by the FCC after mutual agreement, on a case-by-case basis, between the Regional Director of the applicable field office and the military area frequency coordinator at the applicable military base as listed in table 1 to paragraph (c)(270)(i).

TABLE 1 TO PARAGRAPH (c)(270)(i)

Location	Geographic limitation	Coordination contact information
Arizona	None (statewide)	DoD AFC AZ, (520) 538–6423. DoD AFC AZ—DSN—879–6423.
New Mexico	None (statewide)	DoD AFC WSMR—DSN—258–5417.
Texas	West of longitude 104° W	DoD AFC WSMR, (575) 678–5417, *usarmy.wsmr.imcomcentral.list.dodafc@mail.mil.*
California	South of latitude 37°10′ N	DoD Western AFC, (760) 939–6832. DoD Western—DSN—437–6832.
Nevada	South of latitude 37°10′ N	Nevada AFC—DSN—875–0607. Nevada AFC, (702) 679–0607, *dodafc@nellis.af.mil* *usaf.nellis.99-abw.mbx.dod-afcorg@mail.smil.mil.*
Point Mugu, CA	Within 322 km of 34°09′ N, 119°11′ W	NMCSO SW DSN 312–735–9889. NMCSO SW at (619)545–9978, *Nctssdsdni_nmcso_southwest@navy.mil.*
Florida	None (statewide)	DoD Eastern—DSN—467–8436.
Patrick AFB, FL	Within 322 km of 28°21′ N, 080°43′ W	DoD Eastern AFC, (321) 853–8426, *45sw.dodeafc@us.af.mil.*
Eglin AFB, FL	Within 322 km of 30°30′ N, 086°30′ W	DoD Gulf—DSN—875–5648. DoD Gulf AFC, (850) 883–5982.
Beale AFB, CA	Within 240 km of 39°08′ N, 121°26′ W	HQ SpOC Spectrum Management Office, (719) 554–6400, *SpOC.SMO@us.af.mil.* HQ SpOC DSN—692–6400.
Goodfellow AFB, TX	Within 200 km of 31°25′ N, 100°24′ W.	
Warner Robins AFB, GA	Within 200 km of 32°38′ N, 083°35′ W.	
Clear AFS, AK	Within 160 km of 64°17′ N, 149°10′ W.	
Concrete, ND	Within 160 km of 48°43′ N, 097°54′ W.	
Otis AFB, MA	Within 160 km of 41°45′ N, 070°32′ W.	

(ii) In the sub-band 420–430 MHz, the amateur service is not allocated north of Line A (def. § 2.1).

* * * * *

(287) US287 The bands 457.5125–457.6125 MHz, 467.53125–467.54375 MHz, 467.512375–467.518625 MHz, 467.55625–467.56875 MHz, and 467.7375–467.8375 MHz are also allocated to the maritime mobile service on a co-equal, primary basis with the non-Federal fixed and land mobile services. Use of these frequency bands by the maritime mobile service is limited to on-board communication stations. In these frequency bands, stations in the fixed and land mobile services may not claim protection from interference caused by on-board communication stations operating in accordance with paragraph (c)(288) of this section and on-board communication stations may not claim protection from stations in the fixed and land mobile services.

(288) US288 In the territorial waters of the United States, footnote 5.287 applies, except that on-board communication stations must transmit only on the listed frequencies and must operate as specified herein. On-board repeater stations and mobile stations used for single-frequency simplex operation may transmit only in the band 457.5125–457.6125 MHz. The preferred frequencies for repeater systems are 457.525 MHz (channel 1 or 11), 457.5375 MHz (channel 12), 457.550 MHz (channel 2 or 13), 457.5625 MHz (channel 14), 457.575 MHz (channel 3 or 15), and 457.600 MHz paired, respectively, with 467.750 MHz, 467.7625 MHz, 467.775 MHz, 467.7875 MHz, 467.800 MHz, and 467.825 MHz; and the preferred frequencies for single-frequency operations are channels 1–3, 11–15, and 121. Use of channels 122, 141, and 142 and channel pairs 12/22, 14/24, 102/202, 121/221, 122/222, 141/241, and 142/242 is also authorized at coastal ports and the inland ports of Houston, Baton Rouge, and Portland, and along the waterways and at other ports between these inland ports and the ocean; however, on-board communication stations must not transmit on these channels while in port and not underway or preparing to get underway.

* * * * *

(460) US460 The band 7190–7235 MHz is also allocated to the space research service (Earth-to-space) on a secondary basis for non-Federal use. No emissions from space research service (Earth-to-space) systems intended for deep space may be effected in this frequency band. Authorizations are subject to a case-by-case electromagnetic compatibility analysis and approval.

(i) US460A The band 7190–7250 MHz is also allocated to the Earth exploration-satellite service (Earth-to-space) on a secondary basis for non-Federal use, limited to tracking, telemetry and command for the operation of spacecraft. Authorizations are subject to a case-by-case electromagnetic compatibility analysis and approval.

(ii) [Reserved]

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(474) US474D Stations in the Earth exploration-satellite service (active) must not cause harmful interference to, or claim protection from, stations of the maritime radionavigation service in the band 9.2–9.3 GHz and the radiolocation service in the band 9.9–10.4 GHz.

* * * * *

(d) * * *

(62) NG62 In the bands 28.5–29.1 GHz and 29.25–29.5 GHz, stations in the fixed service operating under the following call signs may operate indefinitely on a secondary basis: KIL20, KME49, KQG58, KQH74, KSA96, KSE73, KZS88, WML443, WMP367, and WSL69.

* * * * *

(159) NG159 In the band 698–806 MHz, stations authorized under part 74, subpart F of this chapter may continue to operate indefinitely on a secondary

basis to all other stations operating in that band.

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PART 25—SATELLITE COMMUNICATIONS

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

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

■ 7. Amend § 25.202 by adding paragraph (a)(13) to read as follows:

§ 25.202 Frequencies, frequency tolerance, and emission limits.

(a) * * *

(13) The 1087.7–1092.3 MHz band (center frequency 1090 MHz) is available for use by the aeronautical mobile-satellite (R) service (Earth-to-space) for the reception of Automatic Dependent Surveillance-Broadcast (ADS–B) emissions from aircraft.

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 8. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 310, 325, 336 and 554.

■ 9. Amend § 74.502 by revising paragraphs (c) introductory text and (c)(1)(i) to read as follows:

§ 74.502 Frequency assignment.

* * * * *

(c) The following frequencies are available for assignment to aural broadcast STL and intercity relay stations. Licensees in the fixed-satellite service may require that licensees of grandfathered stations operating in the bands 18,760–18,820 MHz and 19,100–19,160 MHz cease operations in accordance with the provisions in § 101.95 of this chapter.

(1)(i) 5 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 Megahertz Separation	
17702.5	n/a
17707.5	n/a
17712.5	n/a
17717.5	n/a
17722.5	n/a
17727.5	n/a
17732.5	n/a
17737.5	n/a
18062.5	19622.5
18067.5	19627.5
18072.5	19632.5
18077.5	19637.5
18082.5	19642.5
18087.5	19647.5
18092.5	19652.5
18097.5	19657.5
18102.5	19662.5
18107.5	19667.5
18112.5	19672.5
18117.5	19677.5
18122.5	19682.5
18127.5	19687.5
18132.5	19692.5
18137.5	19697.5

* * * * *

■ 10. Amend § 74.602 by:

■ a. Revising paragraph (g) introductory text;

■ b. Removing and reserving paragraph (g)(2); and

■ c. Revising paragraphs (g)(3) through (6);

The revisions read as follows:

§ 74.602 Frequency assignment.

* * * * *

(g) The following frequencies are available for assignment to television STL, television relay stations and television translator relay stations. Licensees may use either a two-way link or one or both frequencies of a frequency pair for a one-way link and shall coordinate proposed operations pursuant to procedures required in § 101.103(d) of this chapter. Licensees in the fixed-satellite service may require that licensees of grandfathered stations operating in the 18.3–18.58 GHz and 19.26–19.3 GHz bands cease operations in accordance with the provisions in § 101.95 of this chapter.

(1) * * *

(2) [Reserved]

(3) 10 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17705.0	n/a
17715.0	n/a
17725.0	n/a
17735.0	n/a
17745.0	19305.0
17755.0	19315.0
17765.0	19325.0
17775.0	19335.0
17785.0	19345.0
17795.0	19355.0
17805.0	19365.0
17815.0	19375.0
17825.0	19385.0
17835.0	19395.0
17845.0	19405.0
17855.0	19415.0
17865.0	19425.0
17875.0	19435.0
17885.0	19445.0
17895.0	19455.0
17905.0	19465.0
17915.0	19475.0
17925.0	19485.0
17935.0	19495.0
17945.0	19505.0
17955.0	19515.0
17965.0	19525.0
17975.0	19535.0
17985.0	19545.0
17995.0	19555.0
18005.0	19565.0
18015.0	19575.0
18025.0	19585.0
18035.0	19595.0
18045.0	19605.0
18055.0	19615.0
18065.0	19625.0
18075.0	19635.0
18085.0	19645.0
18095.0	19655.0
18105.0	19665.0
18115.0	19675.0
18125.0	19685.0
18135.0	19695.0

(4) 20 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17710.0	n/a
17730.0	n/a
17750.0	19310.0
17770.0	19330.0
17790.0	19350.0
17810.0	19370.0
17830.0	19390.0
17850.0	19410.0
17870.0	19430.0
17890.0	19450.0
17910.0	19470.0
17930.0	19490.0
17950.0	19510.0
17970.0	19530.0
17990.0	19550.0
18010.0	19570.0
18030.0	19590.0
18050.0	19610.0
18070.0	19630.0
18090.0	19650.0
18110.0	19670.0
18130.0	19690.0

(5) 40 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17720.0	n/a

Transmit (receive) (MHz)	Receive (transmit) (MHz)
17760.0	19320.0
17800.0	19360.0
17840.0	19400.0
17880.0	19440.0
17920.0	19480.0
17960.0	19520.0
18000.0	19560.0
18040.0	19600.0
18080.0	19640.0
18120.0	19680.0

(6) 80 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17740.0	n/a
17820.0	19380.0
17900.0	19460.0
17980.0	19540.0
18060.0	19620.0

* * * * *

PART 78—CABLE TELEVISION RELAY SERVICE

■ 11. The authority citation for part 78 continues to read as follows:

Authority: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

■ 12. Amend § 78.18 by:

■ a. Revising paragraph (a)(4) introductory text;

■ b. Removing and reserving paragraph (a)(4)(ii); and

■ c. Revising paragraphs (a)(4)(iii) through (vi).

The revisions read as follows:

§ 78.18 Frequency assignments.

(a) * * *

(4) The Cable Television Relay Service is also assigned the following frequencies in the 17,700–18,300 MHz and 19,300–19,700 MHz bands. These frequencies are co-equally shared with stations in other services under parts 25, 74, and 101 of this chapter. Licensees in the fixed-satellite service may require that licensees of grandfathered stations operating in the 18.3–18.58 GHz and 19.26–19.3 GHz bands cease operations in accordance with the provisions in § 101.95 of this chapter.

* * * * *

(iii) 10 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17705.0	n/a
17715.0	n/a
17725.0	n/a
17735.0	n/a
17745.0	19305.0
17755.0	19315.0
17765.0	19325.0
17775.0	19335.0
17785.0	19345.0
17795.0	19355.0
17805.0	19365.0
17815.0	19375.0
17825.0	19385.0
17835.0	19395.0
17845.0	19405.0
17855.0	19415.0
17865.0	19425.0
17875.0	19435.0
17885.0	19445.0
17895.0	19455.0
17905.0	19465.0
17915.0	19475.0
17925.0	19485.0
17935.0	19495.0
17945.0	19505.0
17955.0	19515.0
17965.0	19525.0
17975.0	19535.0
17985.0	19545.0
17995.0	19555.0
18005.0	19565.0
18015.0	19575.0
18025.0	19585.0
18035.0	19595.0
18045.0	19605.0
18055.0	19615.0
18065.0	19625.0
18075.0	19635.0
18085.0	19645.0
18095.0	19655.0
18105.0	19665.0
18115.0	19675.0
18125.0	19685.0
18135.0	19695.0

(iv) 20 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17710.0	n/a
17730.0	n/a
17750.0	19310.0
17770.0	19330.0
17790.0	19350.0
17810.0	19370.0
17830.0	19390.0
17850.0	19410.0
17870.0	19430.0
17890.0	19450.0
17910.0	19470.0
17930.0	19490.0
17950.0	19510.0
17970.0	19530.0
17990.0	19550.0
18010.0	19570.0
18030.0	19590.0
18050.0	19610.0
18070.0	19630.0
18090.0	19650.0
18110.0	19670.0
18130.0	19690.0

(v) 40 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17720.0	n/a
17760.0	19320.0
17800.0	19360.0
17840.0	19400.0
17880.0	19440.0
17920.0	19480.0
17960.0	19520.0
18000.0	19560.0
18040.0	19600.0
18080.0	19640.0
18120.0	19680.0

(vi) 80 MHz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 MHz Separation	
17740.0	n/a
17820.0	19380.0
17900.0	19460.0
17980.0	19540.0
18060.0	19620.0

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 13. The authority citation for part 90 continues to read as follows:

Authority: 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), 1401–1473.

■ 14. Amend § 90.265 by revising paragraph (a)(8) to read as follows:

§ 90.265 Assignment and use of frequencies in the bands allocated for Federal use.

(a) * * *

(8) After [EFFECTIVE DATE OF FINAL RULE], no assignments for the frequencies 406.1250 MHz and 406.1750 MHz will be made, but stations with existing assignments may continue to operate on these frequencies.

* * * * *

PART 97—AMATEUR RADIO SERVICE

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

Authority: 47 U.S.C. 151–155, 301–609, unless otherwise noted.

■ 16. Amend § 97.301 by revising the entry for the ''60 m'' wavelength band in the table in paragraphs (b) through (d) to read as follows:

§ 97.301 Authorized frequency bands.

* * * * *

(b) * * *

Wavelength band	ITU Region 1	ITU Region 2	ITU Region 3	Sharing requirements see § 97.303 (paragraph)
* * *	*	*	*	*
HF	MHz	MHz	MHz	
* * *	*	*	*	*
60 m	5.3515–5.3665	5.3515–5.3665	5.3515–5.3665	(h).
* * *	*	*	*	*

(c) * * *

Wavelength band	ITU Region 1	ITU Region 2	ITU Region 3	Sharing requirements see § 97.303 (paragraph)
* * *	*	*	*	*
HF	MHz	MHz	MHz	
* * *	*	*	*	*
60 m	5.3515–5.3665	5.3515–5.3665	5.3515–5.3665	(h).
* * *	*	*	*	*

(d) * * *

Wavelength band	ITU Region 1	ITU Region 2	ITU Region 3	Sharing requirements see § 97.303 (paragraph)
* * *	*	*	*	*
HF	MHz	MHz	MHz	
* * *	*	*	*	*
60 m	5.3515–5.3665	5.3515–5.3665	5.3515–5.3665	(h).
* * *	*	*	*	*

■ 17. Amend § 97.303 by revising paragraph (h) to read as follows:

§ 97.303 Frequency sharing requirements.

* * * * *

(h) Amateur stations transmitting on frequencies in the 60 m band must not cause harmful interference to, and must accept interference from, stations authorized by:

(1) The United States (NTIA and FCC) and other nations in the fixed service; and

(2) Other nations in the mobile except aeronautical mobile service.

* * * * *

■ 18. Amend § 97.305 by revising the entry for the ''60 m'' wavelength band in the table in paragraph (c) to read as follows:

§ 97.305 Authorized emission types.

* * * * *

(c) * * *

Wavelength band	Frequencies	Emission types authorized	Standards see § 97.307(f), (paragraph)
* * *	*	*	*
HF:			
* * *	*	*	*
60 m	5.3515–5.3665 MHz	Phone, RTTY, data	(14)

Wavelength band	Frequencies	Emission types authorized	Standards see § 97.307(f), (paragraph)
*	*	*	*

■ 19. Amend § 97.307 by revising paragraph (f)(14) to read as follows:

§ 97.307 Emission standards.

* * * * *

(f) * * *

(14) In the 60 m band:

(i) A station may transmit only phone, RTTY, data, and CW emissions. RTTY or data emissions shall meet the digital code specifications listed in § 97.309. Emissions shall not exceed a bandwidth of 2.8 kilohertz.

(ii) The control operator of a station transmitting data or RTTY emissions must exercise care to limit the length of transmissions so as to avoid causing harmful interference to United States Government stations.

■ 20. Amend § 97.313 by revising paragraphs (f) and (i) to read as follows:

§ 97.313 Transmitter power standards.

* * * * *

(f) No station may transmit with a transmitter power exceeding 50 W PEP on the UHF 70 cm band from an area specified in paragraph (i) of footnote US270 in § 2.106 of this chapter, unless expressly authorized by the FCC after mutual agreement, on a case-by-case basis, between the Regional Director of the applicable field facility and the military area frequency coordinator at the applicable military base. An Earth station or telecommand station, however, may transmit on the 435–438 MHz segment with a maximum of 611 W effective radiated power (1 kW equivalent isotropically radiated power) without the authorization otherwise required. The transmitting antenna elevation angle between the lower half-power (−3 dB relative to the peak or antenna bore sight) point and the horizon must always be greater than 10°.

* * * * *

(i) No station may transmit on frequencies in the 60 m band with a radiated power exceeding 15 W (insert value at order stage). For the purpose of computing EIRP, the transmitter PEP will be multiplied by the antenna gain relative to an isotropic antenna. An isotropic antenna will be presumed to have a gain of 1 (0 dBi). Licensees must maintain in their station records either the antenna manufacturer's data on the antenna gain or calculations of the antenna gain.

* * * * *

PART 101—FIXED MICROWAVE SERVICES

■ 21. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 101.83 [Removed and Reserved]

■ 22. Remove and reserve § 101.83.

§ 101.85 [Removed and Reserved]

■ 23. Remove and reserve § 101.85.

§ 101.89 [Removed and Reserved]

■ 24. Remove and reserve § 101.89.

§ 101.91 [Removed and Reserved]

■ 25. Remove and reserve § 101.91.

■ 26. Amend § 101.95 by revising the section heading and paragraph (a) to read as follows:

§ 101.95 Provisions for grandfathered licensees in the 18.30–19.30 GHz band.

(a) The transition period for the 18.30–19.30 GHz band has concluded and thus FSS licensees are not required to pay relocation costs. FSS licensees may require the incumbent to cease operations, provided that the FSS licensee intends to turn on a system within interference range of the incumbent, as determined by TIA Bulletin 10–F or any standard successor. FSS licensee notification to the affected FS licensee must be in writing and must provide the incumbent with no less than six months to vacate the spectrum. After the six-month notice period has expired, the FS licensee must turn its license back into the Commission, unless the parties have entered into an agreement which allows the FS licensee to continue to operate on a mutually agreed upon basis.

* * * * *

§ 101.97 [Removed and Reserved]

■ 27. Remove and reserve § 101.97.

■ 28. Amend § 101.147 by:

■ a. In paragraph (a):

■ i. Revising the list of frequency bands; and

■ ii. Removing note 30;

■ b. Revising paragraph (r) introductory text;

■ d. Removing and reserving paragraph (r)(4); and

■ e. Revising paragraphs (r)(7), (8), (10), (12), and (13).

The revisions read as follows:

§ 101.147 Frequency assignments.

(a) * * *

928.0–929.0 MHz (28)
932.0–932.5 MHz (27)
932.5–935 MHz (17)
941.0–941.5 MHz (27)
941.5–944 MHz (17) (18)
952.0–960.0 MHz (28)
1,850–1,990 MHz (20) (22)
2,110–2,130 MHz) (1) (3) (7) (20) (23)
2,130–2,150 MHz (20) (22)
2,160–2,180 MHz (1) (2) (20) (23)
2,180–2,200 MHz (20) (22)
2,450–2,500 MHz (12)
2,650–2,690 MHz
3,700–4,200 MHz (8) (14) (25)
5,925–6,425 MHz (6) (14) (25)
6,425–6,525 MHz (24)
6,525–6.875 MHz (14) (33)
6,875–7,125 MHz (10), (34)
10,550–10,680 MHz (19)
10,700–11,700 MHz (8) (9) (19) (25)
11,700–12,200 MHz (24)
12,200–12,700 MHz (31)
12,700–13,200 (22), (34)
13,200–13,250 MHz (4) (24) (25)
14,200–14,400 MHz (24)
17,700–18,300 MHz (5) (10) (15)
19,300–19,700 MHz (5) (10) (15)
21,200–22,000 MHz (4) (11) (12) (13) (24) (25) (26)
22,000–23,600 MHz (4) (11) (12) (24) (25) (26)
24,250–25,250 MHz
29,100–29,250 MHz (5), (16)
31,000–31,300 MHz (16)
42,000–42,500 MHz
71,000–76,000 MHz (5) (17)
81,000–86,000 MHz (5) (17)
92,000–94,000 MHz (17)
94,100–95,000 MHz (17)

(r) In the bands 17,700 to 19,700 and 24,250 to 25,250 MHz: Operation of stations using frequencies in these bands is permitted to the extent specified in this paragraph (r). Licensees, except 24 GHz band licensees, may use either a two-way link or one frequency of a frequency pair for a one-way link and must coordinate proposed operations pursuant to the procedures required in § 101.103. The use of the band 18.3–19.3 GHz is limited to grandfathered stations. Licensees in the fixed-satellite service may require that licensees of grandfathered stations operating in the bands 18.3–19.3 GHz cease operations in accordance with the provisions in § 101.95. (Note that stations authorized as of September 9, 1983, to use frequencies in the band 17.7–19.7 GHz may, upon proper application, continue to be authorized for such operations, consistent with the

above conditions related to the 18.3–19.3 GHz band.) Applicants for one-way spectrum from 17.7–18.3 GHz for multichannel video programming distribution are governed by paragraph (r)(6) of this section. Licensees are also allowed to use one-way (unpaired) channels in the 17.7–17.74 GHz sub-band to pair with other channels in the FS portions of the 18 GHz band where, for example, the return pair is already in use and therefore blocked or in TDD systems. Stations used for MVPD operations in the 17.7–17.8 GHz band must coordinate with the Federal Government before operating in the zones specified in § 1.924(e) of this chapter.

* * * * *

(7) 10 Megahertz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 Megahertz Separation	
17705.0	N/A
17715.0	N/A
17725.0	N/A
17735.0	N/A
17745.0	19305.0
17755.0	19315.0
17765.0	19325.0
17775.0	19335.0
17785.0	19345.0
17795.0	19355.0
17805.0	19365.0
17815.0	19375.0
17825.0	19385.0
17835.0	19395.0
17845.0	19405.0
17855.0	19415.0
17865.0	19425.0
17875.0	19435.0
17885.0	19445.0
17895.0	19455.0
17905.0	19465.0
17915.0	19475.0
17925.0	19485.0
17935.0	19495.0
17945.0	19505.0
17955.0	19515.0
17965.0	19525.0
17975.0	19535.0
17985.0	19545.0
17995.0	19555.0
18005.0	19565.0
18015.0	19575.0
18025.0	19585.0
18035.0	19595.0
18045.0	19605.0
18055.0	19615.0
18065.0	19625.0
18075.0	19635.0
18085.0	19645.0
18095.0	19655.0
18105.0	19665.0
18115.0	19675.0
18125.0	19685.0
18135.0	19695.0

(8) 20 Megahertz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 Megahertz Separation	
17710.0	N/A
17730.0	N/A
17750.0	19310.0
17770.0	19330.0
17790.0	19350.0
17810.0	19370.0
17830.0	19390.0
17850.0	19410.0
17870.0	19430.0
17890.0	19450.0
17910.0	19470.0
17930.0	19490.0
17950.0	19510.0
17970.0	19530.0
17990.0	19550.0
18010.0	19570.0
18030.0	19590.0
18050.0	19610.0
18070.0	19630.0
18090.0	19650.0
18110.0	19670.0
18130.0	19690.0

* * * * *

(10) 40 Megahertz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 Megahertz Separation	
17720.0	N/A
17760.0	19320.0
17800.0	19360.0
17840.0	19400.0
17880.0	19440.0
17920.0	19480.0
17960.0	19520.0
18000.0	19560.0
18040.0	19600.0
18080.0	19640.0
18120.0	19680.0

* * * * *

(12) 80 Megahertz maximum authorized bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
1560 Megahertz Separation	
17740.0	N/A
17820.0	19380.0
17900.0	19460.0
17980.0	19540.0
18060.0	19620.0

(13) The following frequencies on channels 35–39 are available for point-to-multipoint systems and are available by geographic area licensing in the 24 GHz Service to be used as the licensee desires. The 24 GHz spectrum can be aggregated or disaggregated and does not have to be used in the transmit/receive manner shown except to comply with international agreements along the U.S. borders. Channels 35 through 39 are licensed in the 24 GHz Service by Economic Areas for any digital fixed service. Channels may be used at either nodal or subscriber station locations for transmit or receive but must be coordinated with adjacent channel and adjacent area users in accordance with the provisions of § 101.509. Stations also must comply with international coordination agreements.

Channel No.	Nodal station frequency band (MHz) limits	User station frequency band (MHz) limits
35	24,250–24,290	25,050–25,090
36	24,290–24,330	25,090–25,130
37	24,330–24,370	25,130–25,170
38	24,370–24,410	25,170–25,210
39	24,410–24,450	25,210–25,250

* * * * *

[FR Doc. 2023–19383 Filed 9–28–23; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 19, and 52

[FAR Case 2020–016; Docket No. FAR–2020–0016; Sequence No. 1]

RIN 9000–A018

Federal Acquisition Regulation: Rerepresentation of Size and Socioeconomic Status

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration to order-level size and socioeconomic status rerepresentation requirements.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before November 28, 2023 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2020–016 to the Federal eRulemaking portal at *https://www.regulations.gov* by searching for ''FAR Case 2020–016''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2020–016''. Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2020–016'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite ''FAR Case 2020–016'' in all correspondence related to this case. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at *https://www.regulations.gov/faq*). To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Dana Bowman, Procurement Analyst, at 202–803–3188 or by email at *dana.bowman@gsa.gov.* For information pertaining to status, publication schedules, or alternate instructions for submitting comments if *https://www.regulations.gov* cannot be used, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAR Case 2020–016.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to amend the FAR to implement regulatory changes made by the Small Business Administration (SBA) in its final rule published on October 16, 2020, at 85 FR 66146 to require small business concerns to rerepresent their size and/or socioeconomic status for orders placed under multiple-award contracts under certain circumstances. Federal Supply Schedules (FSS) are exempt from this mandatory requirement; however, the contracting officer continues to have the discretion to require a rerepresentation for an order. SBA amended its regulations to ensure that small businesses qualify for the applicable size and/or socioeconomic status associated with orders placed under multiple-award contracts where size and/or socioeconomic status were not relevant to the award of the underlying multiple-award contract. Specifically, SBA amended its regulations to require small business concerns identified at FAR 19.000(a)(3) to rerepresent their size and/or socioeconomic status for orders set aside exclusively for small businesses that are issued under an unrestricted multiple-award contract, except for those with reserves. In addition, small business concerns must rerepresent their socioeconomic status for orders issued under a small business set-aside multiple-award contract or the set-aside part of a multiple-award contract where the orders are further set aside for a particular socioeconomic category which differs from the underlying multiple-award contract or the set-aside part of the multiple-award contract.

II. Discussion and Analysis

This rule proposes to modify FAR 19.301–2, Rerepresentation by a contractor that represented itself as a small business concern, and FAR clause 52.219–28, Postaward Small Business Program Rerepresentation, to implement regulatory changes made in SBA's final rule issued on October 16, 2020, at 85 FR 66146 as follows:

—Amend FAR 19.301–2(b) to require a contractor that represented its status as any of the small business concerns at FAR 19.000(a)(3) before contract award, and whose socioeconomic status is not certified by the SBA, to rerepresent its size and socioeconomic status in accordance with the clause at 52.219–28, Postaward Small Business Program Rerepresentation.

—Amend FAR 19.301–2(b) to add a new paragraph (2)(i) to require a contractor that represented itself as any of the small business concerns at FAR 19.000(a)(3) at the multiple-award contract level to rerepresent its size and socioeconomic status upon submitting an offer for orders set aside exclusively for small business concerns that are issued under an unrestricted multiple-award contract, except for orders issued under an unrestricted multiple-award contract with reserves;

—Amend FAR 19.301–2(b) to add a new paragraph (2)(ii) to require a contractor that represented itself as any of the small business concerns at FAR 19.000(a)(3) at the multiple-award contract level to rerepresent its size and socioeconomic status upon submitting an offer for orders issued under a set-aside multiple-award contract that are further set aside for a specific socioeconomic category that differs from the underlying multiple-award contract (*i.e.,* orders set aside for HUBZone small business concerns under a small business set-aside multiple-award contract);

—Amend FAR 19.301–2(b) to add a new paragraph (2)(iii) to require a contractor that represented itself as any of the small business concerns at FAR 19.000(a)(3) at the multiple-award contract level to rerepresent its size and socioeconomic status upon submitting an offer for orders issued under the set-aside part of a multiple-award contract that are further set-aside for a specific socioeconomic category that differs from the underlying set-aside part of the multiple-award contract (*i.e.,* orders set aside for women-owned small business concerns under the small business set-aside part of a multiple-award contract);

—As a result of adding the new paragraph (b)(2), the existing FAR 19.301–2(b)(2) is renumbered as 19.301–2(b)(3); and

—Amend FAR clause 52.219–28, Post-Award Small Business Program Rerepresentation, to change the clause title from ''Post-Award'' to ''Postaward'' and to notify offerors of the rerepresentation requirements at FAR 19.301–2(b)(2). ''Post-Award'' is also changed to ''Postaward'' at FAR 4.604, 19.202–5(c), 19.301–2(b), 19.302(j), and 19.309(c).

Orders issued under FSS are exempt from the requirement to rerepresent size and/or socioeconomic status. However, a contracting officer has the discretion to request rerepresentation of size and/or socioeconomic status for a specific order.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products, (Including Commercially Available Off-the-Shelf (COTS) Items) and for Commercial Services

This proposed rule amends the clauses at FAR 52.219–28, Postaward Small Business Program Rerepresentation, and 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Products and Commercial Services. However, this proposed rule does not change the application to contracts at or below the SAT, or for commercial products and commercial services, including COTS items. The clauses continue to apply to acquisitions at or below the SAT and to acquisitions for commercial products and commercial services, including COTS items.

IV. Expected Impact of the Rule

As a result of this proposed rule a contractor that represented its status before contract award, and whose socioeconomic status is not certified by SBA, will be required to rerepresent their size and/or socioeconomic status for orders placed under multiple-award contracts, under certain circumstances, where rerepresentation was not previously required. The proposed changes ensure that the award of small business set-aside orders under certain multiple-award contracts are made to small businesses that qualify for the size and/or socioeconomic status associated with the orders. Therefore, the expected impact of this rule is that entities that no longer qualify under the applicable North American Industry Classification System (NAICS) code will not be awarded orders under the multiple-award contracts subject to this rule when those orders are set aside.

Also, contracting officers will be required to verify the size and/or socioecomonic status of a small business concern prior to issuing an order under the multiple-award contracts subject to this rule.

Orders placed under the FSS program are exempt from the mandatory rerepresentation requirement; however, contracting officers continue to have the discretion to require a rerepresentation for an order.

This proposed rule is also expected to prevent agencies from receiving credit towards their small business goals for awards made to firms that no longer qualify as small under the applicable NAICS code.

Existing e-business systems are also expected to be impacted by this proposed rule as the Federal Procurement Data System (FPDS) currently does not capture size and socioeconomic status at the order level; therefore, contracting officers will not be able to indicate the size or socioeconomic status of a small business concern at the order level. This may result in inaccurate data and data reporting.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612, because contractors are currently required by regulation to update their size and socioeconomic status representation at least annually; within 30 days after a novation or merger; for long-term contracts, within 60 to 120 days prior to the end of the fifth year of the contract and within 60 to 120 days prior to the date specified in the contract for the exercise of any option thereafter, and when a contracting officer requires rerepresentation for an order. This proposed rule adds a requirement for small business concerns to rerepresent their size and socioeconomic representations for orders issued under a multiple-award contract under certain circumstances. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to update the requirement for rerepresentation of size and socioeconomic status for set-aside orders issued under multiple-award contracts. These changes are required to implement the regulatory changes made by the Small Business Administration (SBA) in its final rule published October 16, 2020, at 85 FR 66146. Specifically, this proposed rule requires a small business concern that represented its status before contract award, and whose socioeconomic status is not certified by the SBA, to rerepresent its size and/or socioeconomic status for all set-aside orders under an unrestricted multiple-award contract where the orders are set aside for a particular socioeconomic category, unless the contract authorized reserves. Additionally, small business concerns must rerepresent their socioeconomic status for orders issued under a set-aside multiple-award contract where the orders are further set aside exclusively for a particular socioeconomic category which differs from the underlying multiple-award contract or the set-aside part of the multiple-award contract (*e.g.,* the multiple-award contract is a small business set-aside award and competition is restricted to certified HUBZone small businesses). This proposed rule also requires a small business concern to rerepresent its socioeconomic status for all set-aside orders where the required socioeconomic status for the order differs from that of the underlying set-aside part of the multiple-award contract. The updated requirements are made to clarify SBA's regulatory provisions and ensure that small businesses qualify under the NAICS code for orders issued under multiple-award contracts.

The objective of this proposed rule is to implement regulatory changes made in SBA's final rule at 85 FR 66146 published on October 16, 2020, to update the requirements for size and socioeconomic status rerepresentation for set-aside orders issued under multiple-award contracts where the socioeconomic status of the order differs from the underlying multiple-award contract or set-aside part of the multiple-award contract, except for multiple-award contracts with reserves and Federal Supply Schedule (FSS) contracts. These changes will ensure that orders set-aside for small businesses are awarded to concerns that qualify for the size and/or socioeconomic status of the NAICS code associated with the order. Promulgation of the FAR is authorized by 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113. The legal basis for this rule is SBA's regulations at 13 CFR part 121.404(a)(1) as amended by SBA's final rule.

This rule will impact approximately 4,395 small entities per year. Currently, contractors are required to rerepresent their size and socioeconomic status for orders under multiple-award contracts if the contracting officer explicitly requires rerepresentation for that order or as required by FAR clause 52.219–28, Postaward Small Business Program Rerepresentation.

According to FPDS, in the last three fiscal years (FYs), agencies set aside orders for small entities under unrestricted multiple-award contracts as follows: 6,509 in FY 2019; 7,392 in FY 2020; and 7,251 in FY 2021; for an average of 7,051 per fiscal year. According to FPDS, in the last three fiscal years, agencies further set aside orders for small entities under set-aside multiple-award contracts as follows: 8,403 in FY 2019; 9,470 in FY 2020; and 10,034 in FY 2021; for an average of 9,302 per fiscal year. According to FPDS, in the last three fiscal years, agencies further set aside orders for a socioeconomic category under the set-aside portion of a multiple-award contract, where the socioeconomic category differs from the underlying multiple-award contract, as follows: 43 in FY 2019; 41 in FY 2020; and 37 in FY 2021; for an average of 40 per fiscal year. This provides an average 5,464 total set-aside orders for small entities per fiscal year.

This proposed rule will impose new reporting, recordkeeping, or other compliance requirements for all small entities. In accordance with FAR 4.1201(b)(1), small entities are required to update their size and socioeconomic status representations in the System for Award Management as necessary, but at least annually, to ensure they are kept current, accurate, and complete. Small entities are also required to rerepresent their size and socioeconomic status in accordance with FAR clause 52.219–28, Postaward Small Business Program Rerepresentation. Currently, in accordance with FAR 19.301–1(e), the size and/or socioeconomic status representation of small entities flows from

the multiple-award contract to orders placed under it. This proposed rule will make it mandatory for small entities to rerepresent their size and/or socioeconomic status at the order level under certain circumstances (*e.g.,* when submitting an offer for a set-aside order under an unrestricted multiple-award contract). Therefore, this rule will apply to all small entities seeking award of an order under the types of multiple-award contracts addressed by this rule.

The proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the proposed rule.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2020–016), in correspondence.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501–3521) applies because the proposed rule contains information collection requirements. This rule affects the information collection requirements in the provisions at 52.219–28 currently approved under OMB Control Number 9000–0163 in accordance with the Paperwork Reduction Act. Accordingly, the Regulatory Secretariat Division has submitted a request for approval of a revised information collection requirement concerning 9000–0163, Rerepresentation of Size and Socioeconomic Status to the Office of Management and Budget.

A. Public reporting burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

Respondents: 4,395.

Responses per respondent: 3.

Total annual responses: 13,185.

Preparation hours per response: 0.5.

Total response burden hours: 6,592.50.

B. Request for Comments Regarding Paperwork Burden.

Submit comments, including suggestions for reducing this burden, not later than November 28, 2023 through *https://www.regulations.gov* and follow the instructions on the site. All items submitted must cite OMB Control No. 9000–0163, Small Business Size Rerepresentation. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

Public comments are particularly invited on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility;
- The accuracy of the 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 the use of automated collection techniques or other forms of information technology.

Requesters may obtain a copy of the supporting statement from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0163, Small Business Size Rerepresentation, in all correspondence.

List of Subjects in 48 CFR Parts 4, 19, and 52

Government procurement.

William F. Clark,

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 4, 19, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 4, 19, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

PART 4—ADMINISTRATIVE AND INFORMATION MATTERS

4.604 [Amended]

■ 2. Amend section 4.604 in paragraph (b)(4) by removing ''Post-Award'' and adding ''Postaward'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.202–5 [Amended]

■ 3. Amend section 19.202–5 in paragraph (c) introductory text by removing ''Post Award'' and adding ''Postaward'' in its place.

■ 4. Amend section 19.301–2 in paragraph (b) by—

■ a. Revising paragraph (b) introductory text;

■ b. Removing from paragraphs (b)(1)(i) and (ii) ''Post-Award'' and adding ''Postaward'' in its place;

■ c. Removing from paragraph (b)(1)(iii)(B) ''thereafter; or'' and adding ''thereafter.'' in its place; and

■ d. Redesignating paragraph (b)(2) as paragraph (b)(3) and adding a new paragraph (b)(2).

The revision and addition read as follows:

19.301–2 Rerepresentation by a contractor that represented itself as a small business concern.

* * * * *

(b) A contractor that represented its status as any of the small business concerns identified in 19.000(a)(3) before contract award, and whose socioeconomic status is not certified by the SBA, is required to rerepresent its size and socioeconomic status in accordance with the clause at 52.219–28, Postaward Small Business Program Rerepresentation—

* * * * *

(2) For the NAICS code assigned to an order (except for an order issued under a Federal Supply Schedule contract)-

(i) Set aside exclusively for a small business concern identified at 19.000(a)(3) that is issued under an unrestricted multiple-award contract, unless the order is issued under an unrestricted multiple-award contract with reserves;

(ii) Issued under a set-aside multiple-award contract that is further set aside for a specific socioeconomic category that differs from the underlying multiple-award contract (*e.g.,* an order set aside for a HUBZone small business concern under a small business set-aside multiple-award contract); or

(iii) Issued under the set aside part of a multiple-award contract that is further set-aside for a specific socioeconomic category that differs from the underlying

set-aside part of the multiple-award contract (*e.g.,* an order set aside for a women-owned small business concern under the small business set-aside part of the multiple-award contract).

* * * * *

19.302 [Amended]

■ 5. Amend section 19.302 in paragraph (j) by removing ''Post-Award'' and adding ''Postaward'' in its place.

19.309 [Amended]

■ 6. Amend section 19.309 in paragraph (c)(1) by removing ''Post-Award'' and adding ''Postaward'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Amend section 52.212–5 by revising the date of the clause and removing from paragraph (b)(23)(i) ''Post Award'' and ''(MAR 2023)'' and adding ''Postaward'' and ''(DATE)'' in its place.

The revision reads as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (DATE)

* * * * *

■ 8. Amend section 52.219–28 by—
■ a. Revising the section heading;
■ b. Revising the clause heading and date of the clause;
■ c. Revising paragraph (c); and
■ d. Removing from paragraph (f) ''paragraph (b) and (c)'' and adding ''paragraphs (b) and (c)'' in its place.

The revisions read as follows:

52.219–28 Postaward Small Business Program Rerepresentation.

* * * * *

Postaward Small Business Program Rerepresentation (DATE)

* * * * *

(c) If the Contractor represented its status as any of the small business concerns identified in 19.000(a)(3) prior to award of this contract and its socioeconomic status is not certified by the SBA, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, for an order (except that paragraphs (a)(1) through (3) of this section do not apply to an order issued under a Federal Supply Schedule contract at subpart 8.4)—

(1) Set aside exclusively for a small business concern identified at 19.000(a)(3) that is issued under an unrestricted multiple-award contract (unless the order is issued under an unrestricted multiple-award contract with reserves);

(2) Issued under a set-aside multiple-award contract that is further set aside for a specific socioeconomic category that differs from the underlying multiple-award contract (*e.g.,* an order set aside for a HUBZone small business concern under a small business set-aside multiple-award contract);

(3) Issued under the set-aside part of a multiple-award contract that is further set aside for a specific socioeconomic category that differs from the underlying set-aside part of the multiple-award contract (*e.g.,* an order set aside for a HUBZone small business concern under a multiple-award contract that is partially set-aside for small businesses); and

(4) When the Contracting Officer explicitly requires it for an order issued under a multiple-award contract, including for an order issued under a Federal Supply Schedule contract (see 8.405–5(b) and 19.301–2(b)(2)).

* * * * *

[FR Doc. 2023–21354 Filed 9–28–23; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2023–0074; FXES11130100000–234F1611MD–FF01E00000]

RIN 1018–BG89

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Grizzly Bear in the North Cascades Ecosystem, Washington State

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (USFWS or Service), propose to establish a nonessential experimental population (NEP) of the grizzly bear (*Ursus arctos horribilis*) within the U.S. portion of the North Cascades Ecosystem (NCE) in the State of Washington under section 10(j) of the Endangered Species Act of 1973, as amended (Act or ESA). Establishment of this NEP is intended to support reintroduction and recovery of grizzly bears within the NCE and provide the prohibitions and exceptions under the Act necessary and appropriate to conserve the species within a defined NEP area. The proposed NEP area includes most of the State of Washington except for an area in northeastern Washington that encompasses the Selkirk Ecosystem Grizzly Bear Recovery Zone. The best available data indicate that reintroduction of the grizzly bear to the NCE, within the NEP area, is biologically feasible and will promote the conservation of the species. We are seeking comments on this proposed section 10(j) rule.

DATES: We will accept comments received or postmarked on or before November 13, 2023. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**), must be received by 11:59 p.m. eastern time on the closing date.

Public information sessions and public hearings: In conjunction with the National Park Service (NPS), we will hold public information meetings and public hearings during the public comment period. The public information meetings and hearings address the reintroduction proposal by the NPS and USFWS, including this proposed rule and the associated draft environmental impact statement (DEIS).

The dates, times, and specific locations of the meetings will be posted on the internet at *https://parkplanning.nps.gov/NCEGrizzly.* If unable to access the internet, please call 360–753–4370 for more information about meeting dates, times, and locations. During the public hearings we will also take oral comments on this proposed rule. The public information meetings and hearings will be physically accessible to people with disabilities. Please direct requests for reasonable accommodations (*e.g.,* auxiliary aids or sign language interpretation) to the person listed in **FOR FURTHER INFORMATION CONTACT** at least 7 working days prior to the date of the meeting you wish to attend.

Information Collection Requirements: In this proposed rule, we propose to authorize take of grizzly bears involved in conflict, in certain limited situations. Such authorizations may require submittal of information to the Service (*e.g.,* information about grizzly bear observations or depredation events) and this information collection is also subject to public comment. If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60

days after publication of this proposed rule in the **Federal Register**. Therefore, such comments should be submitted to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, (see ''Information Collection'' section below under **ADDRESSES**) by November 28, 2023.

ADDRESSES:

Comments on the proposed nonessential experimental population: You may submit comments regarding this proposed rule by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter Docket No. FWS–R1–ES–2023–0074, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the box next to Proposed Rules to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2023–0074, U.S. Fish and Wildlife Service, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

(3) *By oral comments at a public hearing:* Although written comments are preferred, we will accept oral comments submitted during one of the public hearings described above. Oral comments will be transcribed and posted as written comments.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information). To increase our efficiency in downloading comments, groups providing mass submissions should submit their comments in an Excel file.

Comments on Information Collection Requirements: Send your comments on the information collection request to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, by email to *Info_Coll@fws.gov;* or by mail to 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803. Please reference OMB Control Number 1018–BG89 in the subject line of your comments.

Availability of supporting materials: This proposed rule is available at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2023–0074. Hardcopies of the documents are also available for public inspection at the address shown in **FOR FURTHER INFORMATION CONTACT**. Additional supporting information that we developed for this proposed rule is available at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Brad Thompson, State Supervisor, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 500 Desmond Drive, Suite 102, Lacey, WA 98503; telephone 360–753–9440. 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. In compliance with the Providing Accountability Through Transparency Act of 2023, please see docket FWS–R1–ES–2023–0074 on *https://www.regulations.gov* for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments regarding:

(1) The proposed NEP area;

(2) Management zone boundaries;

(3) Proposed management flexibility within each management zone;

(4) Proposed measures to prevent and minimize human-grizzly bear conflicts;

(5) Potential adverse effects to the grizzly bear donor populations;

(6) Proposed adaptive management toward achieving population goals; and

(7) The biological or ecological requirements of the grizzly bear as related to the proposed NEP area, management zones, or proposed regulations.

Please note that by separate **Federal Register** notice of availability on this same date by the Environmental Protection Agency, the NPS and USFWS are also soliciting public comments on the draft environmental impact statement (DEIS) (NPS and USFWS 2023) for the agencies' proposed reintroduction of grizzly bears to the U.S. portion of the NCE. The DEIS analyzes the potential environmental impacts associated with the proposed reintroduction and designation of a nonessential experimental population. Written comments specific to the DEIS should be made to the NPS in accordance with that separate notice; more information can be found on the internet at *https://parkplanning.nps.gov/NCEGrizzly.* Comments specific to this proposed section 10(j) rule should be made to the USFWS docket specified in this document (see **ADDRESSES** above). As noted above, while we prefer written comments on this proposed rule, we will take oral comments at the scheduled public hearings.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. Submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you provide comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions as well as written transcripts of any oral comments made regarding the proposed rule at a public hearing on *https://www.regulations.gov.*

Peer Review

In accordance with our Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities, which was published on July 1, 1994 (59 FR 34270), and the internal memorandum clarifying the USFWS's interpretation and implementation of that policy (USFWS in litt. 2016), we will seek the expert opinion of at least three appropriate independent specialists regarding scientific data and interpretations contained in this proposed rule. We will send copies of this proposed rule to the peer reviewers immediately following publication in the **Federal Register**. The purpose of such review is to ensure that our

decisions are based on scientifically sound data, assumptions, and analysis. Accordingly, the final decision may differ from this proposal.

Previous Federal Actions

The grizzly bear was first federally listed under the Act in 1975 as a threatened species in the conterminous United States (40 FR 31734, July 28, 1975). The listing included special regulations deemed necessary and advisable for the conservation of the species in accordance with section 4(d) of the Act. The section 4(d) regulations for grizzly bear were revised in 1985, 1986, and again in 1992 (50 FR 35086, August 29, 1985; 51 FR 33753, September 23, 1986; 57 FR 37478, August 19, 1992). The USFWS proposed critical habitat for the grizzly bear in 1976 (41 FR 48757, November 5, 1976); however, the designation was never finalized. On February 6, 2023, we announced positive 90-day findings on two petitions to delist the grizzly bear in two specific ecosystems, the Northern Continental Divide Ecosystem and the Greater Yellowstone Ecosystem (88 FR 7658, February 6, 2023). We subsequently initiated a status review to determine whether the petitioned actions are warranted. For a full history of actions related to the grizzly bear, please see our Environmental Conservation Online System (ECOS) species profile at *https://ecos.fws.gov/ecp/species/7642.*

The NCE, where we are proposing to reintroduce grizzly bears, is one of six recovery zones designated to recover grizzly bears in the lower 48 States. We received and reviewed five petitions requesting a change in status for the NCE grizzly bear population from a threatened to an endangered species since 1990 (55 FR 32103, August 7, 1990; 56 FR 33892, July 24, 1991; 57 FR 14372, April 20, 1992; 58 FR 43856, August 18, 1993; and 63 FR 30453, June 4, 1998). In response to these petitions, we determined that the NCE grizzly bear population warranted a change to endangered status. We continued to find that these petitions were warranted but precluded through our annual Candidate Notice of Review (CNOR) process through 2022 (87 FR 26152, May 3, 2022; 88 FR 41560, June 27, 2023). However, we found in our 2023 CNOR that the NCE no longer contains a population based on: (1) the amount of search effort without finding any evidence of grizzly bears or a confirmed population; (2) a limited number of grizzly bear detections in the NCE in the past few decades; and (3) the length of time since the last confirmed detection in 1996 (88 FR 41560, June 27, 2023).

Background and Biological Information

We provide detailed background information on grizzly bears in a separate Species Status Assessment (SSA) (USFWS 2022, entire). Information in the SSA is relevant to reintroduction efforts for grizzly bears that may be undertaken in Washington, and it can be found along with this proposed rule at *https://www.regulations.gov* in Docket No. FWS–R1–ES–2023–0074 (see *Supporting and Related Material*). We summarize relevant information from the SSA below.

Taxonomy and Species Description

Grizzly bears are a member of the brown bear species (*U. arctos*) that occurs in North America, Europe, and Asia. In the lower 48 States, the grizzly bear subspecies occurs in a variety of habitat types in portions of Idaho, Montana, Washington, and Wyoming. Grizzly bears weigh up to 800 pounds (363 kilograms) and live more than 25 years in the wild. Grizzly bears are light brown to nearly black and are so named for their ''grizzled'' coats with silver or golden tips (USFWS 2022, p. 40).

Historical and Current Range

Historically, grizzly bears occurred throughout much of the western half of the contiguous United States, central Mexico, western Canada, and most of Alaska. Prior to European settlement, an estimated 50,000 grizzly bears were distributed in one large contiguous area throughout all or portions of 18 western States (*i.e.,* Washington, Oregon, California, Idaho, Montana, Wyoming, Nevada, Colorado, Utah, New Mexico, Arizona, North Dakota, South Dakota, Minnesota, Nebraska, Kansas, Oklahoma, and Texas). Populations declined in the late 1800s with the arrival of European settlers, government-funded bounty programs, and the conversion of habitats to agricultural uses. Grizzly bears were reduced to less than 2 percent of their former range in the lower 48 States by the time the species was listed as threatened under the Act in 1975, with an estimated population (in the lower 48 States) of 700 to 800 individuals (USFWS 2022, p. 4).

Grizzly bear populations in the lower 48 States consist of approximately 2,000 bears and currently occupy portions of Idaho, Montana, Wyoming, and Washington. Outside the lower 48 States, approximately 55,000 grizzly bears exist in the largely unsettled areas of Alaska and western Canada.

Grizzly Bear Ecosystems and Recovery Zones

The Grizzly Bear Recovery Plan refers to six grizzly bear ecosystems to target species' recovery (Service 1993, p. 10). Currently, approximately 2,000 grizzly bears exist primarily in 4 ecosystems in the lower 48 States: the Northern Continental Divide Ecosystem (NCDE), the Greater Yellowstone Ecosystem (GYE), the Cabinet-Yaak Ecosystem (CYE), and the Selkirk Ecosystem. There are no known grizzly bear populations in the remaining two ecosystems: the North Cascades Ecosystem (NCE) or Bitterroot Ecosystem (BE), nor any known populations outside these ecosystems, although we have documented bears, primarily solitary, outside these ecosystems. Current populations in the NCDE, Selkirk Ecosystem, and CYE extend into Canada to varying degrees. Although there is currently no known population in the NCE, it constitutes a large block of contiguous habitat that spans the international border. Although the USFWS has not explicitly defined ecosystem boundaries, we have identified recovery zones at the core of each ecosystem (USFWS 2022, p. 56) (figure 1). Therefore, each recovery zone pertains to a specific area within the larger ecosystem.

At the time of the original recovery plan, grizzly bear distribution within the conterminous United States was primarily within and around areas identified as recovery zones (USFWS 1993, pp. 10–13, 17–18). The Service identified the six recovery zones, which correspond with the six ecosystems, as follows:

(1) the GYE Recovery Zone in northwestern Wyoming, eastern Idaho, and southwestern Montana (9,200 sq mi (24,000 sq km)) at approximately 1,063 individuals inside the Demographic Monitoring Area (Haroldson et al. 2022, p. 13);

(2) the NCDE Recovery Zone of north-central Montana (9,600 sq mi (25,000 sq km)) at approximately 1,114 individuals (Costello and Roberts 2022, p. 10);

(3) the NCE Recovery Zone of north-central Washington (9,500 sq mi (25,000 sq km)), although no functional population of grizzly bears currently exists in the NCE (see *Status of Grizzly Bears in the North Cascades Ecosystem,* below);

(4) the Selkirk Ecosystem Recovery Zone of northern Idaho, northeastern Washington, and southeastern British Columbia (2,200 sq mi (5,700 sq km)) at approximately 83 individuals (Proctor et al. 2012, p. 31);

(5) the CYE Recovery Zone of northwestern Montana and northern Idaho (2,600 sq mi (6,700 sq km)) at approximately 60–65 bears (Kasworm et al. 2022a, p. 42); and

(6) the Bitterroot Recovery Zone of central Idaho and western Montana (5,830 sq mi (15,100 sq km)), although no functional population of grizzly bears currently exists in the BE.

NCE and NCE Recovery Zone Relation to Proposed Experimental Population

Although the USFWS considers the North Cascades *Ecosystem* to include areas within Canada, the North Cascades *Recovery Zone* is a component of the ecosystem and occurs only within the United States. Throughout this proposed rule, we will reference the broader North Cascades Ecosystem, which includes habitat in Canada, as the ''NCE'' and reference its recovery zone (solely within the United States) as the ''NCE Recovery Zone.'' The proposed nonessential experimental population area (see Proposed Experimental Population below) in this rulemaking action encompasses the entire NCE Recovery Zone and the portion of the larger NCE within the United States.

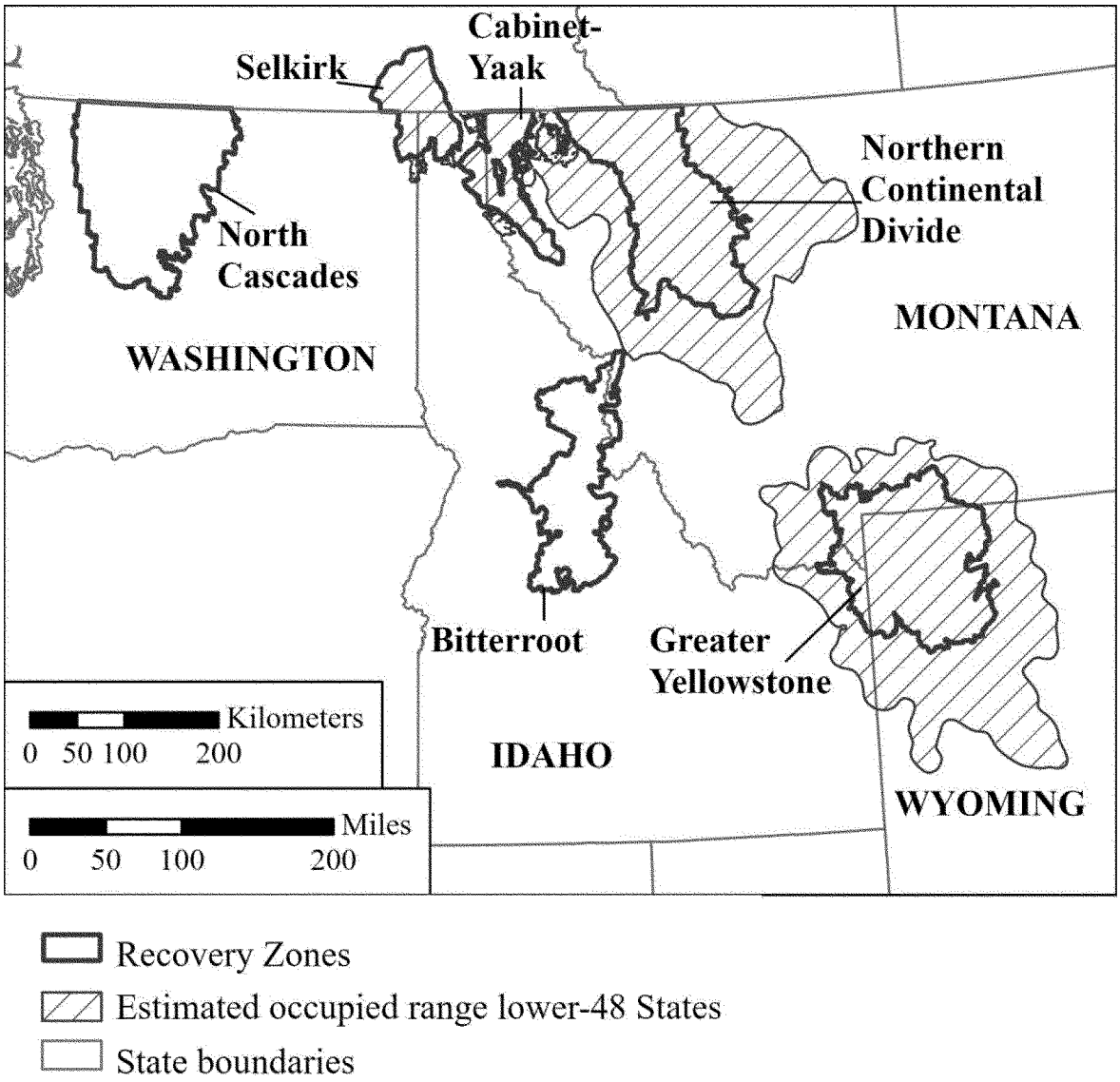


Figure 1. Current estimated distribution of grizzly bears in the lower 48 States and grizzly bear recovery zones.

Behavior and Life History

Adult grizzly bears are normally solitary except when females have dependent young, but they are not territorial and home ranges of adult bears frequently overlap. Home range sizes vary among ecosystems because of population densities and habitat productivity. Average home range size for males varies from 183 to 835 square miles (sq mi) (475–2,162 square kilometers (sq km)) and for females from 50 to 138 sq mi (130–358 sq km) across the recovery areas in the United States (USFWS 2022, p. 44).

Grizzly bears have a promiscuous mating system. Mating occurs from May

through July with a peak in mid-June. Average age of first reproduction can vary from 3 to 8 years of age. Litter sizes range from one to four cubs, although two is the most common. Cubs are typically born in the den in late January or early February and typically remain with the female for 2.5 years, making the average time between litters (*i.e.,* the interbirth interval) approximately 3 years. Grizzly bears have one of the slowest reproductive rates among terrestrial mammals, resulting primarily from the late age of first reproduction, small average litter size, and the long interbirth interval. A population is made up of numerous overlapping generations. It is possible for mothers, daughters, and granddaughters to be reproductively active at the same time. Grizzly bear females typically cease reproducing some time in their mid-to-late 20s (USFWS 2022, pp. 44–45).

Grizzly bears hibernate for 4 to 6 months each year in winter to cope with seasons of low food abundance. Grizzly bears in the lower 48 States typically enter dens between October and December. In the 2 to 4 months before den entry, bears increase their food intake dramatically during a process called hyperphagia. Grizzly bears must consume foods rich in protein and carbohydrates during this time (between August and November) in order to build up fat reserves to survive denning and post-denning periods. Grizzly bears typically hibernate alone in dens, except for females with young and subadult siblings who occasionally hibernate together. Most dens are located at higher elevations, above 8,000 feet (ft) (2,500 meters (m)) in the GYE and above 6,400 ft (1,942 m) in the NCDE and on slopes ranging from 30 to 60 degrees. Grizzly bears exit their dens between March and May; females with cubs exit later than other adults (USFWS 2022, pp. 45–46).

When not hibernating, grizzly bears use a variety of cover types to rest and shelter. Grizzly bears often select bed sites with horizontal and vertical cover, especially at day bed sites, suggesting that bed site selection is important for concealment from potential threats. The relative importance of cover to grizzly bears was documented in a 4-year study of grizzly bears in the GYE. Of 2,261 aerial radio signals from 46 instrumented bears, 90 percent were located in forest cover too dense to observe the bear (USFWS 2022, p. 47).

Grizzly bears make seasonal movements within their home ranges to locations where food is abundant (*e.g.,* ungulate winter ranges and calving areas, talus slopes). They are opportunistic omnivores and display great diet plasticity, even within a population, shifting their diet according to foods that are most nutritious (*i.e.,* high in fat, protein, and/or carbohydrates) and available. They will consume almost any food available including living or dead mammals or fish, insects, worms, plants, human-related foods, garbage, livestock, and agricultural crops. Cattle and sheep depredation rates are generally higher where bear densities are higher and in later summer months. In areas where animal matter is less available, berries, grasses, roots, bulbs, tubers, seeds, and fungi are important in meeting protein and caloric requirements (USFWS 2022, pp. 47–48).

In general, an individual grizzly bear's habitat needs and daily movements are largely driven by the search for food, water, mates, cover, security, or den sites. Grizzly bears display dietary adjustability across ecosystems and exploit a broad diversity of habitat types. Large intact blocks of land directly influence the quality and quantity of the species' resource needs, highlighting the importance of this habitat factor to all life stages. The larger, more intact, and ecologically diverse the block of land, it follows that high-caloric foods, dens, and cover would be more readily available to individuals. Grizzly bears also need large, intact blocks of land with limited human influence and thus low potential for displacement and human-bear or livestock-bear interactions that could result in human-caused mortality. Grizzly bears in the lower 48 States need multiple resilient ecosystems distributed across a geographical area to reduce the risk of catastrophic events. A wide distribution of multiple ecosystems ensures that all ecosystems are not exposed to the same catastrophic event at the same time, thereby reducing risk to the species. Grizzly bears also need genetic and ecological diversity across their range in the lower 48 States to adapt to changing environmental conditions (USFWS 2022, pp. 98–100).

Kasworm et al. (2014, entire) evaluated grizzly bear food data from the CYE. The CYE has a Pacific maritime climate that may be similar to the climate in the central and western Cascade Mountains. Therefore, an evaluation of grizzly bear food selection in the CYE could be useful for predicting food habits of grizzly bears in the NCE. Huckleberry (*Vaccinium* spp.) appears to be an important component of the grizzly bear's diet in the CYE. Data were collected over several years, using both isotope analysis on hairs and scat. Isotope analysis showed a highly variable use of meat (6 percent to 37 percent of diet), and that meat was found in many scats in some months (40 percent of dry matter in April and May), including fall (carrion). Overall, mammals and shrubs (berries) constituted 64 percent of total dry matter annually. In a diet study of grizzly bears in several western ecosystems, researchers found that adult male grizzly bears were more carnivorous than any other age or sex class, with diets composed of around 70 percent meat (Jacoby et al. 1999, pp. 924–926). Other sex and age groups of grizzly bears displayed diets similar to black bears living in the same areas reflective of diets described by Kasworm et al. 2014 (Jacoby et al. 1999, pp. 924–926).

Threats

Excessive human-caused mortality including ''indiscriminate illegal killing,'' defense of life and property mortality, accidental mortality, and management removal was the primary factor contributing to rangewide grizzly bear decline during the 19th and 20th centuries, eventually leading to their listing as a threatened species in 1975 (40 FR 31734, July 28, 1975). Habitat destruction, modification, and isolation and conflict resulting from human access to formerly secure habitat were also identified as threats in the 1975 listing. In the State of Washington, the northwest fur trade was probably the primary driver of rapid grizzly bear decline in the period 1810–1870. In addition to the influx of trappers, resource extraction and livestock production fragmented and degraded grizzly bear habitat in Washington; a mining boom in the early 1800s created a rapid increase in human activity and habitat alteration to accommodate mining infrastructure and human settlements. In the NCE, grizzly bears were also regularly shot and removed by herders of sheep and cattle, and by the late 1800s habitat fragmentation and isolation of the ecosystem accelerated due to the dominance of logging, as well as the expansion of rural development, road and railway access, and orchards (Almack et al. 1993, p. 3; Rine et al. 2020, pp. 5–13; USFWS 2022, p. 143).

Though human-caused mortality has been greatly reduced since the 1800s, excessive human-caused mortality is still currently the primary factor affecting grizzly bears at both the individual and ecosystem levels (USFWS 2022, p. 7). Human-caused mortalities of grizzly bears currently include: (1) accidental killings; (2) management removals; (3) mistaken-identity killing; (4) defense-of-life kills; and (5) illegal killings or poaching (USFWS 2022, pp. 144–145). Human

activities are the primary factor currently impacting habitat security and the ability of bears to find and access foods, mates, cover, and den sites. Users of public lands and recreationists in grizzly bear habitat often increase the risk of human–grizzly conflict by leaving containers of food, garbage, and other bear attractants open or unstored (Gunther et al. 2004, pp. 13–14). However, road access to grizzly bear habitat likely poses the most imminent current threat to grizzly bears by reducing the availability of the necessary large, intact blocks of land; increasing disturbance and displacement of individual bears through increased noise, activity, or human presence; and increasing mortality of individual bears through vehicle strikes or other activities associated with human-caused mortality (USFWS 2022, p. 117).

While existing motorized access levels are unknown on U.S. Forest Service (USFS) lands (USFWS 2022, p. 212), the primary factors related to past destruction and modification of grizzly bear habitat have been reduced through changes in management practices that have been formally incorporated into regulatory documents. In the NCE, approximately 64 percent of the public lands are designated Wilderness or Inventoried Roadless Areas, and the remaining Federal lands are managed under a ''no net loss'' approach that supports core habitat. Population monitoring data collected by Federal, State, and Tribal agencies is used to help identify where human–grizzly bear conflicts occur and compare trends in locations, sources, land ownership, and types of conflicts to inform proactive management of human–grizzly bear conflicts.

Fire is a natural part of all grizzly bear ecosystems, but fire frequency, severity, and burned area may increase with late summer droughts predicted under climate change scenarios (Nitschke and Innes 2008, p. 853; McWethy et al. 2010, p. 55; Halofsky et al. 2020, p. 10; Whitlock et al. 2017; pp. 123–131, 216, XXXII). In the North Cascades, wildfire is projected to burn nearly four times more area by the 2080s compared to the historical period of 1980 to 2006 (Halofsky et al. 2020, p. 10). High-intensity fires may reduce grizzly bear habitat quality immediately afterwards by decreasing hiding cover, changing movement patterns, and delaying regrowth of vegetation. Predators with large territories, like grizzly bears, have more flexibility to exploit resources in burned and unburned landscapes (as cited in Nimmo et al. 2019, p. 986). Moreover, in conifer-dominated forest ecosystems, wildfires transition forest to earlier succession stages, which can increase prey densities due to increases in the availability of vegetative food resources (Snobl et al. 2022, pp. 14–15; Lyons et al. 2018, p. 10).

Even if cover is lost, movement is changed, and vegetation growth is delayed, depending on their size and severity, fires may have only short-term adverse impacts on grizzly bears while providing more long-term benefits. For example, fire plays an important role in maintaining an open forest canopy, shrub fields, and meadows that provide for grizzly bear food resources, such as increased production of forbs, root crops, and berries (Hamer and Herrero 1987b, pp. 183–185; Blanchard and Knight 1996, p. 121; Apps et al. 2004, p. 148; Pengelly and Hamer 2006, p. 129). Because grizzly bears have shown resiliency to changes in vegetation resulting from fires, we do not expect altered fire regimes predicted under most climate change scenarios to have significant negative impacts on grizzly bear survival or reproduction, despite the potential short-term effects on vegetation important to grizzly bears. Climate models predict that the NCE will experience substantial vegetation changes from longer growing seasons, drier summer months and wetter winter and spring months, decreased snowpack, and an increased number of disturbance events that are expected to improve food resources for grizzly bears and thus increase habitat quality (Ransom et al. 2018, p. 26). Modeling of grizzly bear habitat in the North Cascades under various projected climate change scenarios shows increased carrying capacity and increased potential grizzly bear density estimates under all scenarios (Ransom et al. 2023, pp. 6–8; USFWS 2022, table 27, p. 243). The complex relationship between changes in climate, natural processes, and natural and anthropogenic features will ultimately determine the future quality of grizzly bear habitat across the ecosystem (Ransom et al. 2018, entire).

Status of Grizzly Bears in the North Cascades Ecosystem

In the Service's 2023 status review, we determined that the NCE no longer contained a population of grizzly bears (88 FR 41560 at 41579, June 27, 2023). We also indicated that we were continuing to evaluate options for restoring grizzly bears to the NCE (88 FR 41560 at 41580, June 27, 2023).

Factors contributing to the extirpation of a functional population of grizzly bears from the NCE include historical habitat loss and fragmentation and human-caused mortality (USFWS 2022, pp. 49–51). Historical records indicate that grizzly bears once occurred throughout the NCE (Bjorklund 1980, p. 7; Sullivan 1983 p. 4; Almack et al. 1993 p. 2, Rine et al. 2020, pp. 10–13). There has been no confirmed evidence of grizzly bears within the U.S. portion of the NCE since 1996 when an individual grizzly bear was observed on the southeastern side of Glacier Peak within the Glacier Peak Wilderness Area. The most recent direct evidence of reproduction in the U.S. portion of the NCE was a confirmed observation of a female and cub on upper Lake Chelan in 1991 (Almack et al. 1993, p. 34).

In the United States, most habitat within the NCE is federally owned and managed by the NPS including North Cascades National Park (NP), Ross Lake National Recreation Area (NRA), and Lake Chelan NRA, but some areas are managed by the USFS. Sixty-four percent of the NCE Recovery Zone is protected from motorized routes due to designation as Wilderness or protected from roads due to designation as Inventoried Roadless Areas. Despite the lack of recent observations, five studies have evaluated portions of the NCE for grizzly bear habitat suitability (Agee et al. 1989, entire; Almack et al. 1993, entire; Gaines et al. 1994, entire; Lyons et al. 2018, entire; Ransom et al. 2023, entire), and all conclude that the U.S. portion of the NCE has the habitat resources essential for the maintenance of a grizzly bear population.

Grizzly bear populations in Canada are not part of the U.S. listed grizzly bear entity. However, suitable habitat within the NCE spans the international border. The NCE within Canada is relatively isolated from other ecosystems with grizzly bear populations in Canada (Morgan et al. 2019, p. 3). The current range of grizzly bears in British Columbia is divided into 55 Grizzly Bear Population Units (GBPUs) that are used for monitoring and management. The British Columbia North Cascades GBPU is immediately north of the U.S. portion of the NCE and was described as isolated and small with possibly three females remaining (Morgan et al. 2019, p. 19). To the north and west of this GBPU lie the Stein-Nahatlach and the Garibaldi-Pit GBPUs that are also described as small and largely isolated with estimated female populations of 12 and 2, respectively (Morgan et al. 2019, p. 19). All three of these units are ranked as being of extreme management concern (Morgan et al. 2019, p. 21) using the NatureServe methodology, integrating rarity (*e.g.,* range extent, population size), population trend, and severity of threats

to produce a conservation status rank for discrete geographical units (Morgan et al. 2019, p. 6). The International Union for the Conservation of Nature classified these populations as critically endangered on their Red List due to small size and isolation (McLellan et al. 2017, p. 2). The Kettle-Granby GBPU lies 60 miles to the northeast of the NCE across the Okanogan River in British Columbia with an estimated female population of 48 grizzly bears in 2018 (Morgan et al. 2019, p. 19). Based on this information there appears to be little demographic or genetic connectivity from other GBPUs to the North Cascades GBPU.

Recovery Efforts to Date

In accordance with section 4(f)(1) of the Act, the USFWS completed a grizzly bear recovery plan in 1982 (USFWS 1982, entire) and released a revised recovery plan in 1993 (USFWS 1993, entire; other revisions and supplements affecting other populations can be found in ECOS). Recovery plans serve as ''road maps'' for species recovery—they lay out where we need to go and how to get there through specific actions. Recovery plans are not regulatory documents and are instead intended to provide guidance to the USFWS, States, and other partners on methods of minimizing threats to listed species and on criteria that may be used to determine when recovery is achieved.

In 1993, the USFWS revised the grizzly bear recovery plan (hereafter, ''recovery plan'') to include additional tasks and new information that increased the focus and effectiveness of recovery efforts (USFWS 1993, pp. 41–58). In 1996 and 1997, we released supplemental chapters to the recovery plan to direct recovery in the BE and NCE Recovery Zones, respectively (USFWS 1996; USFWS 1997). In our recovery plan supplement for the NCE Recovery Zone, we outlined the following recovery goals for the U.S. portion of the NCE:

(1) that the population is large enough to offset some level of human-induced mortality and be self-sustaining despite foreseeable influences of demographic and environmental variation; and

(2) reproducing bears are distributed through the NCE Recovery Zone. Such a population may comprise 200–400 grizzly bears in the U.S. portion of the ecosystem (USFWS 1997, p. 3).

This supplement to the recovery plan supported fostering grizzly bear restoration in the NCE, specifically identifying translocations as an alternative for recovering this population.

Interagency Grizzly Bear Committee

In 1983, the Interagency Grizzly Bear Committee (IGBC) was established ''to ensure recovery of viable grizzly bear populations and restoration of their habitats in the lower 48 States through interagency coordination of policy, planning, management and research'' (IGBC 1983, entire). The IGBC consists of representatives from the Service, USFS, NPS, the Bureau of Land Management, the U.S. Geological Survey, and representatives of the State wildlife agencies of Idaho, Montana, Washington, and Wyoming. At the ecosystem level, Native American Tribes that manage grizzly bear habitat and county governments are represented, along with other partners.

The IGBC NCE subcommittee guides and coordinates habitat management and conflict prevention for grizzly bears in the NCE Recovery Zone (USFWS 1997, p. 8). In 1997, the North Cascades NP Superintendent and three National Forest (NF) Supervisors (Mt. Baker-Snoqualmie NF, Okanogan NF, and Wenatchee NF) agreed to a ''no-net-loss of core'' approach within any bear management unit to protect and secure grizzly bear habitat in the U.S. portion of the NCE (see USFS 1997, entire), and they have managed the national park and national forests using that guidance since. Under this approach, ''core area'' is defined as the area more than 0.3 mi (500 m) from any open-motorized access route or high-use nonmotorized trail (more than 20 parties per week).

Management Efforts in the NCE and NCE Recovery Zone

A number of habitat management measures have been implemented within the NCE Recovery Zone to improve habitat connectivity, habitat security, and safety for grizzly bears and humans, in areas where interactions are likely. These measures include management of human access to grizzly bear habitat and improved sanitation and food storage measures to prevent or minimize human–grizzly bear interactions.

Management of human access is one of the most important and significant management strategies for grizzly bears. It includes balancing the need for road and motorized trail access with providing secure areas for grizzly bears. Access management in the NCE Recovery Zone is guided by the ''no-net-loss of core'' approach described above (USFS 1997, entire). In simplest terms, this approach indicates that if a road is constructed or opened to motorized travel, another road must be closed to motorized use in order to maintain core habitat.

In an effort to minimize the potential for human-caused mortality of grizzly bears, substantial outreach efforts have been put in place by the NPS and USFS over the last 30 years to reduce unsecured attractants (*e.g.,* garbage, human food) and provide the public with tips on identifying and coexisting with grizzly bears (*e.g.,* Western Wildlife Outreach 2023; Braaten et al. 2013, pp. 7–8). The NPS has service-wide food storage regulations (36 CFR 2.2(a), 2.10(d), and 2.14(a)), including requiring campers to use food storage canisters or park-provided food storage lockers at the North Cascades NPS Complex. In early 2023, Mt. Baker-Snoqualmie NF issued a forest-wide, year-round food storage order. The Okanogan-Wenatchee NF does not have food storage restrictions but continues to place bear-resistant facilities, including food storage lockers, at campgrounds.

It is illegal to negligently feed, attempt to feed, or attract large carnivores to land or a building in Washington State, and doing so may result in an infraction (see Revised Code of Washington (RCW) 77.15.790). There are exceptions for individuals engaging in acceptable practices related to waste disposal, forestry, wildlife control, and farming or ranching operations. Any person who intentionally feeds or attempts to feed or attracts large carnivores to land or a building is guilty of a misdemeanor (see RCW 77.15.792). The Washington Department of Fish and Wildlife (WDFW) has also implemented a regulation that requires black bear hunters to take and pass a bear identification test when hunting black bears in specific areas within grizzly bear recovery zones, with the intent of minimizing the potential for accidental killings of grizzly bears because of mistaken identification (WDFW 2023, p. 70).

State and Canadian Protections

Grizzly bears are State-listed as an endangered species in Washington (RCW 77.12.020, Washington Administrative Code 220–610–010, Lewis 2019, p. 1). In British Columbia, grizzly bears are ranked as ''Special Concern'' by both the British Columbia Conservation Data Centre and federally under Canada's Species at Risk Act (B.C. Conservation Data Centre 2023; SARA 2018). The International Union for Conservation of Nature (IUCN) identifies four populations within British Columbia on the IUCN Red List of Threatened Species, including three that border Washington State with Red

List Categories reflecting heightened extinction risk (North Cascades–Critically Endangered, South Selkirk–Vulnerable, and the Yahk/Yaak–Endangered, McLellan et al. 2016, pp. 1–2). Currently, there appears to be little to no demographic or genetic connectivity to the NCE from other populations in Canada.

The feasibility of recovering grizzly bears in the Canadian portion of the NCE is under consideration in British Columbia. First Nations have declared grizzly bears within the North Cascades GBPU as in immediate need of restoration and protection (ONA 2014, entire, Piikani Nation 2018, entire). The British Columbia Government in collaboration with Canadian First Nations have established a Joint Nation partnership to outline population recovery objectives and strategies in a North Cascades Grizzly Bear Stewardship Strategy (in review). The team is also developing a communication strategy to assess public reception for recovery in the area. Additionally, the Provincial Government has identified management options for all grizzly bear populations as outlined in the British Columbia Grizzly Bear Stewardship Framework (in review). Should augmentation efforts occur in British Columbia, it is likely that some grizzly bears reintroduced into the Canadian portion of the ecosystem may move into the proposed NEP area in the United States, either as transients that return to Canada or that ultimately remain in the United States.

Statutory and Regulatory Framework

Section 9 of the Act (16 U.S.C. 1538) sets forth the prohibitions afforded to species listed under the Act. Section 9 of the Act prohibits take of endangered wildlife. ''Take'' is defined by the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Section 7 of the Act outlines the procedures for Federal interagency cooperation to conserve federally listed species and protect designated critical habitat. It mandates that all Federal agencies use their existing authorities to further the purposes of the Act by carrying out programs for the conservation of listed species. It also requires that Federal agencies, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the Act does not affect activities undertaken on private land unless they are authorized, funded, or carried out by a Federal agency.

The 1982 amendments to the Act (16 U.S.C. 1531 *et seq.*) included the addition of section 10(j), which allows for populations of listed species planned to be reintroduced to be designated as ''experimental populations.'' The provisions of section 10(j) were enacted to ameliorate concerns that reintroduced populations will negatively impact landowners and other private parties, by giving the Secretary of the Interior greater regulatory flexibility and discretion in managing the reintroduced species to encourage recovery in collaboration with partners, especially private landowners. The Secretary may designate as an experimental population a population of endangered or threatened species that will be released into habitat that is capable of supporting the experimental population outside the species' current range. Under section 10(j) of the Act, we must make a determination as to whether or not an experimental population is essential to the continued existence of the species based on best available science. Our regulations define an essential population as one whose loss would be likely to appreciably reduce the likelihood of the survival of the species in the wild. All other experimental populations are classified as nonessential (50 CFR 17.80(b)).

We treat any population determined by the Secretary to be an experimental population as if we had listed it as a threatened species for the purposes of establishing protective regulations under section 4(d) of the Act with respect to that population (50 CFR 17.82). We may apply any of the prohibitions of section 9 of the Act to the members of an experimental population, including the prohibitions against the sale or possession, import and export, or ''take'' (50 CFR 17.82). The designation as an experimental population allows us to develop tailored ''take'' prohibitions that are necessary and advisable to provide for the conservation of the species. The protective regulations adopted for an experimental population will contain applicable prohibitions as appropriate, and exceptions for that population, allowing us discretion in devising management programs to provide for the conservation of the species.

Section 7(a)(2) of the Act requires that Federal agencies, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or adversely modify its critical habitat. We treat an NEP as a threatened species when the population is located within the National Wildlife Refuge System (NWRS) or unit of the NPS, and those agencies are required to consult with us under section 7(a)(2) of the Act (50 CFR 17.83; see 16 U.S.C. 1539 (j)(2)(C)(i)). When NEPs are located outside of an NWRS or NPS unit, for the purposes of section 7, we treat the population as proposed for listing and only sections 7(a)(1) (50 CFR 17.83) and 7(a)(4) (50 CFR 402.10) of the Act apply (50 CFR 17.83). In these instances, NEPs allow additional flexibility in managing the nonessential population because Federal agencies are not required to consult with us under section 7(a)(2). Section 7(a)(1) requires all Federal agencies to use their authorities to carry out programs for the conservation of listed species. Section 7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a species proposed to be listed.

Section 10(j)(2)(C)(ii) of the Act states that critical habitat shall not be designated for any experimental population that is determined to be nonessential. Accordingly, we cannot designate critical habitat in areas where we establish an NEP.

Before authorizing the release as an experimental population of any population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Service must find by regulation that such release will further the conservation of the species. In making such a finding the Service uses the best scientific and commercial data available to consider:

(1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere (see *Effects on Wild Populations,* below);

(2) the likelihood that any such experimental population will become established and survive in the foreseeable future (see *Likelihood of Population Establishment and Survival,* below);

(3) the relative effects that establishment of an experimental population will have on the recovery of the species (see *Effects of the Experimental Population on Grizzly Bear Recovery,* below); and

(4) the extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area (see

Actions and Activities in Washington That May Affect Reintroduced Grizzly Bears, below).

Furthermore, as set forth at 50 CFR 17.81(c), all regulations designating experimental populations under section 10(j) of the Act must provide:

(1) appropriate means to identify the experimental population, including but not limited to its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population (see *Means To Identify the Experimental Population,* below);

(2) a finding, based solely on the best scientific and commercial data available, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species in the wild (see *Findings,* below);

(3) management restrictions, protective measures, or other special management concerns for that population, which may include, but are not limited to, measures to isolate and/or contain the experimental population designated in the regulation from nonexperimental populations (see *Management Restrictions, Protective Measures, and Other Special Management,* below); and

(4) a process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species (see *Review and Evaluation of the Success or Failure of the NEP,* below).

Under 50 CFR 17.81(d), the Service must consult with appropriate State fish and wildlife agencies, affected Tribal governments, local government agencies, affected Federal agencies, and affected private landowners in developing and implementing experimental population rules. To the maximum extent practicable, rules issued under section 10(j) of the Act represent an agreement between the Service, the affected State and Federal agencies, Tribal governments, local governments, and persons holding any interest in land and water that may be affected by the establishment of an experimental population. Hereafter in this document, we refer to the proposed regulations for establishing the NEP of the grizzly bear within the U.S. portion of the NCE as the ''10(j) rule.''

Proposed Experimental Population

Experimental Population Area

The proposed geographic area for the grizzly bear nonessential experimental population (NEP) occurs within the U.S. portion of the NCE and encompasses the entire NCE Recovery Zone. It also includes all of Washington State except an area in northeastern Washington around the Selkirk Ecosystem Recovery Zone where there is currently a population of grizzly bears (see figure 2). The northeastern boundary of the NEP is defined by the Kettle River from the international border with Canada, downstream to the Columbia River, to its confluence with the Spokane River, then upstream on the Spokane River to the Washington–Idaho border. We are proposing to designate an NEP area beyond the NCE Recovery Zone to allow management of grizzly bears within the NCE Recovery Zone as well as grizzly bears that move outside of the NCE Recovery Zone.

In the U.S. portion of the NCE, the majority of land is under Federal ownership managed primarily by the NPS, including North Cascades National Park (NP), Ross Lake National Recreation Area (NRA), and Lake Chelan NRA, with some areas managed by the USFS.

In drawing our NEP area and management zone boundaries, we considered the following data points: Those areas where a population of grizzly bears could be successfully established; an evaluation of the opportunities for grizzly bears to move between blocks of high-quality grizzly bear habitat in Washington (Singleton et al. 2004, p. 96, USFWS 2022, pp. 305–309, Kasworm et al. 2022b, entire); the potential for human–bear conflicts; grizzly bear movement data from other populations; the location of the closest existing grizzly bear populations and historical observations of dispersers from those populations; ease of implementation (using readily discernible features for management zone boundaries such as roads and Federal land ownership boundaries); and input from NPS, WDFW, USFS, and the public.

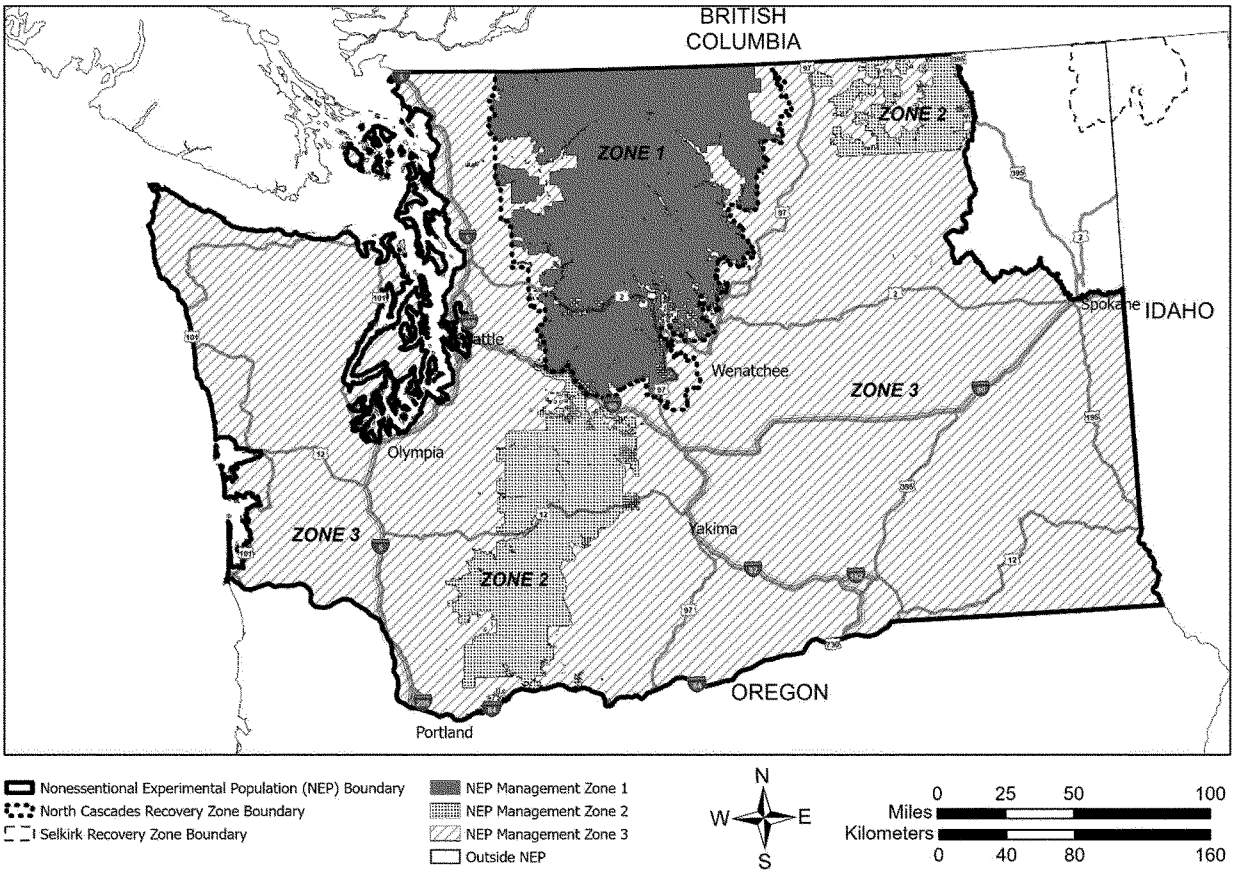


Figure 2. Map of proposed grizzly bear NEP and NEP management zones.

Management Zones

Within the NEP area, we identified three management zones (see figure 2) based on suitability for occupancy by grizzly bears and the likelihood of human–bear conflicts, which are often associated with private lands. We are proposing to establish these management zones to help focus grizzly bear conservation within the NCE Recovery Zone and to allow more flexible management in the remaining portion of the NEP. Details of the management regulations we are proposing within each management zone are provided below in *Management Restrictions, Protective Measures, and Other Management Concerns.*

Management Zone 1 would include the Mt. Baker-Snoqualmie NF and Okanogan-Wenatchee NF north of Interstate 90 and west of Washington State Route 97, as well as the North Cascades NPS Complex. To define the proposed Management Zone 1 boundary, we used the NCE Recovery Zone but then excluded State-owned and private lands so that it is easily identifiable. Management Zone 1 would be the primary area for the experimental population restoration and would serve as core habitat for survival, reproduction, and dispersal of the NEP. Management Zone 1 primarily would consist of remote protected lands that support grizzly bear diet, habitat, and reproduction needs (see *Behavior and Life History* section above). Therefore, Management Zone 1 would serve as the core habitat for grizzly bear reintroductions, where all release sites would occur (see *Release Areas,* below).

Management Zone 2 would include the Mt. Baker-Snoqualmie NF and Okanogan-Wenatchee NF south of Interstate 90, Gifford Pinchot NF, and Mount Rainier National Park. Management Zone 2 also would include the Colville NF and Okanogan-Wenatchee NF lands east of Washington State Route 97 within the experimental population boundary, though it is less likely that bears will disperse into this area due to the distance from proposed Management Zone 1 to the west. Management Zone 2 is meant to accommodate natural movement or dispersal by grizzly bears. We expect some level of grizzly bear transience as well as occupancy in Management Zone 2 because of the existing habitat on public lands with limited human influence, resulting in lower potential levels of human–bear conflict (due to food storage regulations and limited human-attractants).

Management Zone 3 would comprise all other lands outside of proposed Management Zones 1 and 2 within the NEP boundary, and outside the area excluded near the Selkirk Ecosystem Recovery Zone. Beyond the Selkirk excluded area, the outer boundary of Management Zone 3, and thus outer boundary of the NEP area, would be delineated by the Washington State border. Management Zone 3 would contain large areas that may be incompatible with grizzly bear presence due to high levels of private land ownership and associated development and/or potential for bears to become involved in conflicts and resultant bear mortality (although some areas within this management zone are capable of supporting grizzly bears, and some grizzly bears may occur here). The intent of Management Zone 3 is to allow more management flexibility to

minimize impacts of grizzly bears on landowners and other members of the public.

The NEP area contains human infrastructure and activities that pose some risk to the success of the restoration effort from human-caused mortality of grizzly bears. These activities include both controllable and uncontrollable sources of mortality. Controllable sources of mortality are discretionary, can be limited by the managing agency, and include permitted take and direct agency control. Sources of mortality that will be difficult to limit, or may be uncontrollable, occur regardless of population size and include things such as natural mortalities, illegal take, and accidental deaths (*e.g.,* vehicle collisions, capture-related mortalities, defense-of-life kills) (USFWS 2022, pp. 144–145). Accidental mortality caused by vehicle collision is difficult to control but is not anticipated to be a significant cause of mortality. The main types of human-caused mortality in the GYE, NCDE, CYE, and Selkirk Ecosystem Recovery Zones result from human site conflicts (*e.g.,* when grizzly bears are drawn to areas with unsecured chickens, garbage, or bird and livestock feed where landowners attempt to deter the bear or protect themselves), self-defense, mistaken identification kills, and illegal kills, some of which can be partially mitigated through management actions (Servheen et al. 2004, p. 21; USFWS 2022, p. 144). We expect the same types of human-caused mortality identified within other recovery zones to occur within the NEP.

Despite these human-caused mortalities, grizzly bear populations in other recovery zones have continued to increase in size and expand their current distribution (USFWS 2022, pp. 167–168). The NEP would build on continuing success in recovering grizzly bears through longstanding cooperative and complementary programs by a number of Federal, State, and Tribal agencies. In particular, through coordination of policy, planning, management, and research, and communication between Federal, State, Tribal and Provincial agencies, the IGBC has proven to be a successful model for agencies working cooperatively and coordinating recovery efforts over multiple jurisdictions, and substantial progress has been made toward recovering the species in other ecosystems. With continued coordination through the IGBC NCE subcommittee, we do not expect Federal, State, Tribal, or private actions and activities in Washington to have significant adverse effects on grizzly bears within the proposed NEP area.

For management of grizzly bears on Tribal lands, we expect to defer monitoring and day- to-day management of grizzly bears to the relevant Tribe if they have the interest and capacity to undertake that management. Otherwise, we expect that the USFWS and/or other Federal and/or State bear management staff could assist in grizzly bear management on these Tribal lands per terms in a memorandum of understanding (MOU) involving those agencies in coordination with the affected Tribe, which would be put in place prior to agency involvement on Tribal lands.

Grizzly bears in Washington State that are not within the NEP area, *i.e.,* grizzly bears that are within and around the Selkirk Ecosystem Recovery Zone (see figure 2), would not be subject to management under this proposed rule; they are subject to the existing special rule for grizzly bears under section 4(d) of the Act, found at 50 CFR 17.40(b).

Release Areas

Proposed grizzly bear release areas would be limited to Federal lands and include portions of North Cascades NP and Ross Lake NRA, administered by NPS, and Glacier Peak, Pasayten, and Stephen Mather Wilderness areas, administered by USFS. Primary release sites would be remote areas that could be accessed by helicopter and capable of accommodating helicopter support staging areas (NPS and FWS 2023, p. 29). Secondary release sites would be remote areas that could be accessed by vehicle or boat transportation and capable of accommodating appropriate staging areas. Secondary release sites would be used only if helicopter sites were not available due to weather limitations affecting flight safety. Staging areas would be identified in previously disturbed areas large enough for the safe landing of a helicopter, parking for a fuel truck, and any other grizzly bear transport and handling needs.

Release sites would be chosen based on habitat suitability, connectivity to other release sites within the NEP, and the need to have released grizzly bears in close proximity to one another to facilitate interaction and breeding. Additional criteria for acceptable release sites include the following:

- Areas that consist largely of high-quality seasonal habitat; specifically, areas that contain readily available berry-producing plants that are known grizzly bear foods.
- Areas that are largely roadless, and an adequate distance from high visitor use and motorized areas and have low human use.
- Areas with a suitable helicopter landing site or a suitable vehicle- or boat-accessible site with little public use.
- Future additional release sites would be informed by grizzly bear resource selection as determined through monitoring of grizzly bears previously released into the NEP. Sites for subsequent releases of grizzly bears would be chosen based on the criteria listed above and limited to Federal lands, unless otherwise authorized by relevant authorities and landowners.

Capture and Release Procedures

Grizzly bears will be captured using baited foot snares or culvert traps as a primary method. Helicopters will be used to transport culvert traps from which grizzly bears would be released. It is possible that helicopter support will also be used for the capture of grizzly bears through use of helicopter-based capture darting. The capture and release of grizzly bears will take place during the summer (June–September), depending on the selected capture and release site(s) and food availability. Grizzly bears will be moved and transported from capture locations to release staging areas by vehicle. Grizzly bears will then be transported from staging areas to remote release sites by helicopter or by vehicle or boat on NPS or USFS lands in Management Zone 1 (NPS and USFWS 2023, p. 29). Each release could take up to 8 hours (1 day) depending on the distance between staging and release areas, potentially resulting in 5 to 10 days of helicopter use per year for releases. Helicopters could make up to four round trip flights, traveling approximately 500 ft (150 m) above the ground, and make up to four landings in wilderness per release, which would be necessary for the release of each grizzly bear and dropoff and retrieval of staff and the culvert trap. All operations would be conducted during daylight hours.

We will attempt to capture five to seven bears per year. Capture success and availability of bears will govern the exact annual numbers captured and source population(s). Additional grizzly bears could be needed depending on a variety of factors, including human-caused mortality, genetic limitations, population trends, and the population's sex ratio. Population modeling indicates the need for release of 36 bears into the NEP to obtain an initial population of 25 individuals in approximately 8–9 years (NPS and USFWS 2023, p. 33). Until a population of 25 individuals is reached,

we will capture and release grizzly bears to replace any previously released grizzly bears that die. We expect additional releases to maintain genetic diversity in this population as determined by long-term monitoring. Bears released would be roughly 60 percent or greater females, and ages of all released animals (males and females) are expected to be 2–6 years old.

How does the experimental population contribute to the conservation of the species?

Under 50 CFR 17.81(b), before authorizing the release as an experimental population, the Service must find by regulation that such release will further the conservation of the species. We explain our rationale for making our finding below. In making such a finding, we must consider effects on donor populations, the likelihood of establishment and survival of the experimental population, the effects that establishment of the experimental population will have on recovery of the species, and the extent to which the experimental population will be affected by Federal, State, or private activities.

Effects on Wild Populations

Our regulations at 50 CFR 17.81 require that we consider any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere. The preferred donor populations for the proposed reintroduction of grizzly bears to the NEP occur in south-central British Columbia or in the United States, such as the NCDE or GYE. We will seek source areas that have a healthy grizzly bear population so that removal of grizzly bears would not affect population viability, as the capture and removal of grizzly bears would be considered a loss for the source population.

Sourcing NEP grizzly bears from NCDE, GYE, and/or south-central British Columbia populations will not negatively affect the donor populations for the following reasons. The NCDE and GYE demonstrate stable to slightly increasing demographic trends with an estimated 1,114 grizzly bears in the NCDE and 1,069 bears in the GYE in 2021. Further, grizzly bear distribution has expanded well beyond these recovery zones (figure 1; USFWS 2022, pp. 63–67). Given the demonstrated resilience and recovery trajectory of these populations in the United States and Canada, and the limited number of grizzly bears that will be translocated (36 grizzly bears to obtain an initial population of 25 individual bears), we expect the donor populations in the NCDE and the GYE to remain stable and persist despite the translocation of these 36 individuals for the NEP. Further, the number of individuals necessary for the NEP is minimal in relation to the demographic recovery criteria and the annual mortality of the NCDE and GYE populations. South-central British Columbia has several GBPUs with a sufficient number of bears and conservation status secure enough to use as sources. Wells Gray, North Purcells, Central Rockies, and North Selkirk GBPUs have a combined total estimated grizzly bear population of 1,100, and populations are stable or increasing (Environmental Reporting BC, 2020, entire).

In addition to sourcing NEP grizzly bears from healthy populations, we will prioritize source areas that are ecologically similar to the NCE area and will prioritize capturing grizzly bears that do not have a history of coming into conflict with humans. We will attempt to capture grizzly bears that share a similar ecology and food economy to potential release areas. Food economy refers to the dominant foods available to grizzly bears in a given area. Dominant foods in the NCE are expected to be similar to the west side of the NCDE in northwestern Montana, adjacent grizzly bear habitat in British Columbia, Canada, and grizzly bear habitat in south-central interior British Columbia. In these areas, berries are the dominant food source providing calories and ultimately fat production necessary for a grizzly bear to survive hibernation and reproduce. As a result, these areas will most likely be selected for capturing grizzly bears for release into the NEP as compared, for example, to areas where grizzly bears rely predominately on salmon. However, mortality thresholds in these source populations may limit the number of grizzly bears available for the NEP reintroduction effort, and other ecosystems, such as the GYE, may be considered in those circumstances.

Lastly, the entities managing the source area must also be willing to donate grizzly bears that meet the selection criteria and allow trapping of an adequate number of grizzly bears. We will coordinate in advance with the relevant authorities managing the potential source populations before seeking to capture and translocate grizzly bears. All applicable regulatory requirements would be fulfilled prior to translocation of grizzly bears.

Likelihood of Population Establishment and Survival

In our findings for designation of an experimental population, we must consider if the reintroduced population will become established and survive in the foreseeable future. In this section of the preamble, we address the likelihood that populations introduced into the proposed NEP area will become established and survive. The term ''foreseeable future'' appears in the Act in the statutory definition of ''threatened species.'' However, the Act does not define the term ''foreseeable future.'' Similarly, our implementing regulations governing the establishment of experimental populations under section 10(j) of the Act use the term ''foreseeable future'' (50 CFR 17.81(b)(2)) but do not define the term. Our implementing regulations at 50 CFR 424.11(d), regarding factors for listing, delisting, or reclassifying species, set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term foreseeable future extends only so far into the future as we can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions as it relates to life history of the species and its response to threats. While we use the term ''foreseeable future'' here in a different context (to determine the likelihood of experimental population establishment and to establish boundaries for identification of the experimental population), we apply a similar conceptual framework. Our analysis of the foreseeable future uses the best scientific and commercial data available and considers the timeframes applicable to the relevant effects of release and management of the species and to the species' likely responses in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

For the purposes of this proposed rule, we define the foreseeable future for our evaluation of the likelihood of survival and establishment of this proposed NEP as approximately 30–45 years. We selected this timeframe because it captures approximately two to three generation intervals for the grizzly bear. A generation interval is the approximate time that it takes a female grizzly bear to replace herself in the population. Given the longevity of

grizzly bears, two to three generation intervals represent a time period during which a complete turnover of the population would have occurred and any positive or adverse changes in the status of the population would likely be evident. Additionally, because human-caused mortality is the primary threat to the species, this timeframe considers the possibility that USFS land management plans, the primary regulatory mechanism managing human access to grizzly bear habitat, could go through at least one revision.

In evaluating the likelihood of establishment and survival of this proposed NEP in the foreseeable future, we consider the extent to which causes of extirpation in the NEP area have been addressed, habitat suitability and prey availability within the NEP area, and existing scientific and technical expertise and experience with reintroduction efforts. As discussed below, we expect that grizzly bears will become established during the foreseeable future.

Addressing the Causes of Extirpation in the Experimental Population Area

In the NEP, the northwest fur trade was probably the primary driver of rapid grizzly bear decline, while the effects of mining, logging, livestock production, agriculture, and development also fragmented and degraded grizzly bear habitat and increased conflict-related mortality (Almack et al. 1993, p. 3; Rine et al. 2020, pp. 5–13; USFWS 2022, p. 143). By 1975, grizzly bear populations in the U.S. portion of the NCE had been reduced in number and restricted largely to remote areas (USFWS 2022, p. 52). Though the NEP currently contains one of the largest contiguous blocks of Federal land remaining in the lower 48 States, diminished grizzly bear numbers from past intensive killing and isolation from other grizzly bear populations contributed to the extirpation of the historic population and the low likelihood of natural recolonization (Lewis 2019, p. 7; USFWS 2022, p. 52; 88 FR 41560, June 27, 2023).

Regulation of human-caused mortality has substantially reduced the number of grizzly bear mortalities caused by humans. Because road access was identified by the IGBC as one of the most imminent threats to grizzly bears, the recovery plan recommended that road management be given the highest priority for grizzly bear recovery (USFWS 1993, pp. 21–22; USFWS 2022, p. 52). Land management agencies across grizzly bear range have incorporated habitat management guidance from the recovery plan (USFWS 1993, entire). In addition to road access, the IGBC has identified and implemented conflict prevention measures in the U.S. portion of the NCE including sanitation measures, signage about grizzly bears and sanitation in the national park and the national forests, and funding for education and outreach programs (IGBC 2019, p. 9). North Cascades NP and several nonprofit organizations provide resources, educational material, and workshops to the public to prevent bear conflict in the NCE. Regulating human-caused mortality through habitat management and conflict prevention are effective approaches to reduce negative effects to grizzly bear populations, as evidenced by increasing grizzly bear populations in the lower 48 States (USFWS 2022, p. 7). The best available data indicate that, due to ongoing conservation efforts in the GYE, NCDE, CYE, and Selkirk Ecosystem, grizzly bear population trends in these ecosystems are stable or increasing, and range extent has continued to expand (figure 1; USFWS 2022, p. 208). Given that the intent is to implement similar conservation efforts in the NCE Recovery Zone as guided by the IGBC, we can expect human-caused mortality and direct and indirect effects of human activity for the NEP to be reduced to a level such that these threats would not prevent population growth and stability.

Habitat Suitability

As noted above (in *Status of Grizzly Bears in the North Cascades Ecosystem*), five studies conclude that the U.S. portion of the NCE has the habitat resources essential for the maintenance of a grizzly bear population (Agee et al. 1989, entire; Almack et al. 1993, entire; Gaines et al. 1994, entire; Lyons et al. 2018, entire; Ransom et al. 2023, entire). The IGBC NCE Subcommittee had two separate research teams (Almack et al. 1993, entire; Gaines et al. 1994, entire) evaluate an area encompassing more than 10,000 sq mi (25,900 sq km) of the NCE for grizzly bear habitat types and foods. The survey area included all the National Park complex and most of Mt. Baker-Snoqualmie NF and Okanogan-Wenatchee NF. Each team evaluated the survey area for viable grizzly bear habitat using common criteria, including the presence, abundance, and diversity of grizzly bear foods; habitats of seasonal importance and their distribution; and delineation of human activities (*i.e.,* roads, habitation, timber harvest, recreation). In addition to these criteria, Almack et al. (1993, p. 22) evaluated the study area for grizzly bear habitat according to the seven characteristics identified by Craighead et al. (1982, p. 10): space, isolation, denning, safety, sanitation, vegetation types, and food.

The results of these surveys were presented to a technical review team, which ultimately determined based on the available data, that the U.S. portion of the NCE could support a viable grizzly bear population of 200 to 400 individuals (Servheen et al. 1991, p. 7). More recent work using a suite of spatially explicit, individual-based population models that integrate information on habitat selection, human activities, and population dynamics estimated a mean carrying capacity for grizzly bears in the U.S. portion of the NCE between 250 and 300 grizzly bears (Lyons et al. 2018, entire). Using the modeling framework developed in Lyons et al. (2018, entire), Ransom et al. (2023, entire) evaluated grizzly bear habitat quality and carrying capacity across a range of future climate scenarios through 2099. The net amount of high-quality habitat was shown to increase across all modeled future scenarios as compared to current conditions. Assuming a home range size of 108 sq mi (280 sq km), carrying capacity increased from a baseline of 139 female bears under current conditions to 241–289 female bears (Ransom et al. 2023, p. 6).

Almack et al. (1993, pp. 7–10) and Gaines et al. (1994, pp. 534–356) used Landsat multispectral scanner imagery and field observations to produce vegetation cover maps of the study area according to vegetation structure (*e.g.,* forest, shrub, and barren rock) and community composition. The teams also identified 124 plant species known to be grizzly bear foods through an exhaustive review of sighting reports, scat analysis, and studies conducted on grizzly bears south of Alaska. Analysis of the vegetation maps indicated that 100 of the 124 identified plant species exist in the U.S portion of the NCE, and every vegetation cover type contained some plants that were on the list. The teams also mapped ranges of wildlife prey species known to occur in the NCE. Salmonid species were more abundant in streams on the western slope of the NCE, and ungulates were dispersed relatively evenly throughout. These results led both teams to conclude that sufficient vegetative grizzly bear foods are readily available in the U.S. portion of the NCE, and the occurrence of wildlife prey species can sustain a grizzly bear population (Almack et al. 1993, pp. 21–22; Gaines et al. 1994, p. 544).

Some developed areas outside of the NCE Recovery Zone but within the NEP, such as industrial timber lands,

agricultural areas, and towns and cities, contain habitat resources for grizzly bears. Although these areas may be capable of supporting grizzly bears, human influences may make those areas not conducive or compatible with persistent grizzly bear occupation. Our zoned management approach is intended to allow additional management options for grizzly bears that may move into these areas.

Translocation Expertise and Experience

Similar grizzly bear translocations to those we will conduct for the proposed NEP have been conducted in the Cabinet Mountains portion of the CYE since the 1990s. Specifically, researchers and managers have been augmenting the CYE's small grizzly bear population by introducing one to two grizzly bears per year in the period 1990–1994 and from 2005 to the present. All augmented bears have originated from the NCDE and British Columbia. The success of the CYE augmentation pilot program prompted additional augmentations between populations in the United States. Beginning in 2005, in cooperation with Montana Department of Fish, Wildlife and Parks, 10 female bears and 8 male bears were moved from the Flathead River to the Cabinet Mountains during 2005–2021 (Kasworm et al. 2022a, pp. 25–33). DNA analysis from hair corrals has been occurring since 2000 and from rub trees since 2012. Based on this analysis, 3 females and 2 males are known to have produced at least 15 first-generation, 23 second-generation, and 4 third-generation offspring. Of 22 bears released through 2020, 8 are known to have left the target area (1 was recaptured and brought back, 2 returned in the same year, and 1 returned a year after leaving), 3 were killed within 4 months of release, and 1 was killed 16 years after release (Kasworm et al. 2022a, p. 26). Annual survival rates of augmentation bears (0.784) are lower than native subadult female CYE bears (0.852) (Kasworm et al. 2022a, pp. 37–38).

Data collected since the 1988 population estimate now suggest the CYE population may have been even smaller than the previously thought estimate of 15 or fewer individuals in 1988. However, recent data also suggest that the number of grizzly bears in the Cabinet portion of the CYE has increased. Current population size for the CYE is estimated to be 60–65 bears with approximately half this number in the Cabinet Mountains (Kasworm et al. 2022a, p. 42). The population increase in the Cabinet Mountains has occurred almost exclusively through the augmentation effort and reproduction from those individuals (Kasworm et al. 2022a, pp. 31–33). Grizzly bears in the CYE are expected to continue to increase in population and resiliency with ongoing augmentation efforts (USFWS 2022, pp. 229–242).

These data demonstrate our technical expertise, experience, and success with grizzly bear translocations. We will be relying on the same measures for the NEP translocations. Therefore, we anticipate grizzly bear translocations in the NEP to be as successful as those conducted in these other areas. Based on the available data from other grizzly bear populations, we modeled annual population growth rates of 2 to 4 percent and estimated there are likely to be 46–81 grizzly bears (2 percent annual growth) or 62–146 grizzly bears (4 percent annual growth) in the NEP area 30–45 years after translocations are initiated.

Summary

The best available scientific data indicate that the restoration of grizzly bears into the NEP is biologically feasible and would promote the conservation of the species. Specifically, we anticipate that grizzly bears can be successfully reestablished in the NEP for the following reasons:

(1) The reintroduced population will receive ongoing demographic support (population augmentation) from source populations to replace bears that die or are killed until a population of 25 individuals is achieved and to maintain genetic diversity in this population as determined by long-term monitoring (NPS and USFWS 2023, p. 33).

(2) The primary causes of historical grizzly bear extirpation from the region (direct killing by humans and habitat loss as a result of conversion to agriculture and resource extraction) are now regulated to ensure the population will survive and grow (Lewis 2019, pp. 8–9).

(3) An established IGBC NCE Subcommittee can help guide the restoration effort. This subcommittee helps coordinate policy, planning, management, and research with the Federal and State agencies responsible for grizzly bear recovery and management (IGBC 2019, pp. 9–10); Tribal governments are also represented on IGBC subcommittees and engage as desired.

(4) Landscape-scale modeling and studies of available habitat and food resources indicate the NEP area has the capacity to support a self-sustaining population of grizzly bears (Almack et al. 1993, pp. 21–22; Gaines et al. 1994, p. 544; Lyons et al. 2018, p. 29; Ransom et al. 2023, p. 6).

(5) We have experience in successfully translocating grizzly bears in other areas and have established effective protocols (Kasworm et al. 2007, pp. 1262–1265; Kasworm et al. 2022a, pp. 31–33) that we will apply to NEP reintroductions.

Based on these considerations, we anticipate that the reintroduced population of grizzly bears is likely to become established and persist in the proposed NEP.

Effects of the Experimental Population on Grizzly Bear Recovery

Restoring the grizzly bear to the NEP area and establishing the associated protective measures and management practices under this proposed rule would further the conservation of grizzly bears by establishing another population in a portion of the species' historical range where the species is presently functionally extirpated. Our recovery plan includes a recovery objective to recover grizzly bears in all of the ecosystems known to have suitable space and habitat (USFWS 1993, pp. 15–16). The NEP area contains one of the largest remaining areas of high-quality habitat for the grizzly bear in the contiguous United States (USFWS 1997, p. 1). Reintroducing grizzly bears into the NEP area and establishing a self-sustaining grizzly bear population focused on the NCE fulfills an important recovery need for the grizzly bear in the contiguous United States.

We assess species' viability through the lens of the conservation biology principles of resiliency, redundancy, and representation (collectively known as the ''3Rs'') (USFWS 2016, entire). Resiliency describes the ability of the species to withstand stochastic disturbance events, which is associated with population size, growth rate, and habitat quality. Redundancy is the ability for the species to withstand catastrophic events, for which adaptation is unlikely, and is associated with the number and distribution of populations. Representation is the ability of a species to adapt to changes in the environment and is associated with its ecological, genetic, behavioral, and morphological diversity. Resiliency of grizzly bear ecosystems is measured using both habitat and demographic factors. Despite the moderate condition of habitat, without a known population the NCE currently has no resiliency, and as a result does not currently contribute to redundancy and representation of grizzly bears in the contiguous United States (USFWS 2022, p. 10–14). If successful, reintroduction in the NCE

would improve resiliency by reestablishing a population of the species within its historical range that is demographically viable. Successful reintroduction would also improve redundancy by further reducing the likelihood that any one catastrophic event would affect all populations. It would also increase the ecological diversity of the habitats occupied by the species and improve representation by facilitating adaptation to a variety of ecological settings and potentially increasing the future genetic diversity of grizzly bears. For these reasons, reestablishment of a population of grizzly bears in the NCE as a NEP, if implemented and successful, would increase resiliency, redundancy, and representation, and hence viability, of the currently listed lower 48 States entity.

Actions and Activities in Washington That May Affect Reintroduced Grizzly Bears

Although the proposed NEP area contains a variety of land ownership types (see *Experimental Population Area,* above), it contains large blocks of land with limited ongoing human influence, such as remote Federal lands (including those managed as designated wilderness), some State lands, and lands acquired for conservation by nongovernmental organizations. These areas provide sufficient high-quality habitat for grizzly bears, and low potential for both displacement and human–bear interactions. However, grizzly bears will likely use other lands within the NEP, depending on human development and other human activities.

Primary land uses on lands in Management Zone 1 (see *Management Zones,* above) include protection and conservation of natural and cultural resources, non-motorized land-based recreation (hiking, climbing, skiing, cycling, camping, hunting), motorized land-based recreation (off-highway vehicle and snowmobile riding), water-based recreation (boating, fishing), hydropower production, timber harvest, mineral extraction, livestock grazing, research, and education. Although much of Management Zone 1 is public land, is largely unavailable and/or unsuitable for intensive development, and contains an abundance of wild ungulates, livestock grazing does occur within the zone on public lands, which may increase the potential for mortality of grizzly bears via lethal control of depredating bears. Grazing allotments make up 17 percent of Management Zone 1; however, only 8 percent of the grazing allotments are currently active. Most of these permits are for grazing cattle, and five allotments allow for sheep grazing, all of which are in the southern half of Management Zone 1 close to Wenatchee and Cle Elum (USDA 2023, entire). Similar land management practices in the GYE and NCDE, and the expanding grizzly bear populations in those areas, indicate that livestock allotments and associated habitat loss are not limiting grizzly bear populations (USFWS 2022, p. 124).

Primary land uses in Management Zone 2 (see *Management Zones,* above) are similar to those in Management Zone 1: Protection and conservation of natural and cultural resources, non-motorized and motorized land-based recreation, water-based recreation, timber harvest, mineral extraction, livestock grazing, research and education. As described in Management Zone 1, these activities pose some risk to grizzly bears, but will not likely preclude grizzly bear presence in Management Zone 2.

Management Zone 3 (see *Management Zones,* above) contains mostly private land, including developed areas, and areas where agricultural and industrial uses predominate. Large areas in this management zone may be incompatible with grizzly bear presence due to relatively high amounts of private land ownership and associated development and/or potential for bears to become involved in conflicts and resultant bear mortality. Grizzly bears may still occupy portions of Management Zone 3, but human activities will limit their presence.

Experimental Population Regulation Requirements

Our regulations at 50 CFR 17.81(c) include a list of what we should provide in regulations designating experimental populations under section 10(j) of the Act. We explain what our proposed regulations include and provide our rationale for those regulations, below.

Means To Identify the Experimental Population

Our regulations require that we provide appropriate means to identify the experimental population, which may include geographic locations, number of individuals to be released, anticipated movements, and other information or criteria. The proposed NEP area encompasses the entire State of Washington except for the area within and around the Selkirk Ecosystem Recovery Zone (figure 3). As discussed below, we conclude that, after initial releases, any grizzly bears found in the NEP area will, with a high degree of likelihood, have originated from and be members of the NEP. However, we recognize that it would not be possible for members of the public to determine the origin of any individual grizzly bear. Therefore, we propose to use geographic location to identify members of the NEP. As such, any grizzly bear within the NEP area, regardless of origin, will be treated as part of the experimental population. Individual grizzly bears dispersing into or out of the experimental population area will assume the status of grizzly bears within the geographic area in which they are found. However, currently, no population of grizzly bears exists within the NEP area, and the likelihood of a grizzly bear moving into the NEP area from the nearest population of ESA-listed grizzly bears in the Selkirk Ecosystem is small (see *Is the Proposed Experimental Population Wholly Geographically Separate from Nonexperimental Populations?* below).

We anticipate that eventually some grizzly bears may move between portions of the NCE in Canada and the United States (see *Is the Proposed Experimental Population Wholly Geographically Separate from Nonexperimental Populations?* below). Any grizzly bears moving from Canada to the NEP area will be treated as part of the NEP while in the NEP area, with all the associated ESA protections and exceptions of the experimental population. Thus, a grizzly bear originating in Canada but located in the NEP area in the United States would be managed in accordance with the 10(j) rule. Likewise, a bear originating in the NEP but located in the British Columbia portion of the ecosystem would be managed in accordance with appropriate Canadian regulations.

Is the proposed experimental population wholly geographically separate from nonexperimental populations?

Section 10(j) of the Act requires that an experimental population of a listed species be wholly geographically separate from other populations of the same listed species. Grizzly bears reintroduced in the NEP would be separated from the nearest population of bears in the United States, located in the Selkirk Ecosystem. The NEP is approximately 100 mi (161 km) to the west of the Selkirk Ecosystem, which contains approximately 83 individuals, and the NEP is 75 mi (121 km) from any verified grizzly bear observations to the west of the Selkirk Ecosystem (Proctor et al. 2012, p. 31). The area between the two populations also contains significant portions of human-altered landscape (*e.g.,* major roads, agricultural

lands, rural/urban development) or major natural landscape features (*e.g.,* Columbia River) that reinforce continued geographic separation. Due to the highly fragmented landscape between these areas, as well as the distance between these ecosystems, which is beyond the average female dispersal distance of 6.1–8.9 miles (9.8–14.3 km) (McLellan and Hovey 2001, p. 842; Proctor et al. 2004, p. 1108), we conclude the proposed NEP to be wholly separate from all other extant populations of grizzly bears in the United States. Dispersal between the NEP and other populations or the likelihood of overlap is low; therefore, we do not expect natural recolonization of the NEP area could happen on its own.

As noted above, the Act requires that an experimental population of a listed species be wholly geographically separate from other populations of the same listed species. In this case, the listed species is the grizzly bear in the lower 48 States, and thus the NEP is required to be wholly geographically separate only from other populations of the ESA-listed species, that is, other populations within the United States. However, the NEP is also currently separated from any known grizzly bear populations in Canada, which are not part of the listed species. Connectivity from the east in Canada is unlikely as the nearest population is over 100 km across the heavily human-settled Okanagan Valley (North Cascades Grizzly Bear Recovery Team 2004, p. 7, McLellan et al. 2017, p. 2).

The closest GBPUs to the north include the Canadian North Cascades GBPU (adjacent to the U.S. portion of the NCE), estimated in 2018 to have 6 grizzly bears, and the Stein-Nahatlatch GBPU (37 km from NCE), estimated to have 22 grizzly bears (Environmental Reporting B.C. 2020, p. 13). Both units are designated as M1, the highest level of conservation concern, according to British Columbia's conservation ranking assessment (Morgan et al. 2020, pp. 19–24) and are designated as ''Critically Endangered'' by the IUCN Red list (McLellan et al. 2017, p. 2). While the Stein-Nahatlatch GBPU is within the dispersal distance of both male (29.9–41.9 km) and female (9.8–14.3 km) grizzly bears (McLellan and Hovey 2001, p. 842; Proctor et al. 2004, p. 1108) to the North Cascades GBPU, only the northern half of the Stein Nahatlatch GBPU is occupied by grizzly bears (Apps et al. 2008, p. 25; Apps et al. 2014, p. 30). The distance between the North Cascades GBPU and the occupied portion of the Stein-Nahatlatch GBPU is significant and consists of the large Fraser River valley and canyon, the heavily travelled Trans-Canada Highway, two railways, human settlements, and other developments (USFWS 2022, pp. 321–324). Therefore, dispersal of grizzly bears from the Stein-Nahatlatch GBPU to the NEP is unlikely. As discussed above, restoring a grizzly bear population in the Canadian portion of the NCE through augmentation is under consideration. Should augmentation efforts occur in British Columbia, some grizzly bears reintroduced into the Canadian portion of the ecosystem may likely move into the proposed NEP area in the United States, either as a transient that returns to Canada or that ultimately remains in the United States.

A restored population of grizzly bears in British Columbia would not affect the designation of a section 10(j) experimental population of grizzly bear listed in the United States because the ''wholly geographic'' separation requirement does not apply. For this reason, we also propose that, upon finalization of the NEP (*i.e.,* on the effective date of the final 10(j) rule), any bears entering the NEP area from Canada would be managed under the final 10(j) rule even if we have not yet implemented the NEP introduction. This would include any of the six current bears in the Canadian portion of the NCE and any bears reintroduced by Canada that travel into the U.S. portion of the NCE before we implement reintroduction of grizzly bears. In other words, if we determine to reintroduce bears to the U.S. portion of the NCE with a final 10(j) rule, but we are not able to implement that reintroduction before grizzly bears are reintroduced in the Canadian portion of the NCE and travel into the NEP area, any grizzly bears entering the NEP from Canada would still be managed pursuant to the 10(j) rule, assuming it is made final and effective.

Is the experimental population essential to the continued existence of the species in the wild?

When we establish experimental populations under section 10(j) of the Act, we must determine whether such a population is essential to the continued existence of the species in the wild. This determination is based solely on the best scientific and commercial data available. Our regulations state that an experimental population is considered essential if its loss would be likely to appreciably reduce the likelihood of survival of that species in the wild (50 CFR 17.80(b)). All other populations are considered nonessential. Although the experimental population in the U.S. portion of the NCE will contribute to the recovery of the grizzly bear in the United States, several factors suggest the restored population is not essential to the grizzly bear's continued existence in the wild:

(1) Approximately 2,000 grizzly bears exist in other ecosystems in the contiguous United States that are intensively monitored and managed (USFWS 2022, p. 61, see *Historical and Current Range* and *Grizzly Bear Ecosystems and Recovery Zones;*

(2) We are proposing to capture and translocate a relatively small number of grizzly bears (up to 5–7 per year) from populations that are demographically healthy and therefore will not be measurably affected by this removal (see *Effects on Wild Populations*);

(3) The experimental population is not expected to provide demographic support to the existing grizzly bear populations in the contiguous United States due to geographic distance and existing barriers to dispersal (see *Status of Grizzly Bears in the North Cascades Ecosystem*); and

(4) The experimental population will be established from extant grizzly bear populations (see *Effects on Wild Populations*) and therefore will not possess any unique genetic or adaptive traits that are critical to the survival of the species.

For these reasons, the loss of the experimental population would not appreciably reduce the likelihood of survival of that species in the wild. Therefore, as required by 50 CFR 17.81(c)(2), we find that the proposed experimental population is not essential to the continued existence of the species in the wild, and we propose to designate the experimental population in the U.S. portion of the NCE as an NEP.

Management Restrictions, Protective Measures, and Other Special Management

Federal, State, and Tribal authorities will manage the reintroduced grizzly bears in the NEP. These entities will collaborate on monitoring, coordination with landowners and land managers, public awareness, and other tasks necessary to ensure successful management of the NEP consistent with a USFWS-partner agency MOU specific to implementing the 10(j) rule. Specific management considerations related to the experimental population, including prohibitions and exceptions involving the taking of individual animals, are addressed below.

Section 9 of the Act prohibits various actions regarding species listed as endangered, which may be applied as part of protective regulations for

experimental populations. Section 9 prohibitions include among other things prohibition against the import or export of species, restrictions on possession, sale, and transport (whether commercial or otherwise), and the prohibition against ''take'' of any such species. Section 3(19) of the Act defines ''take'' as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' Experimental population rules may contain specific prohibitions and exceptions, including regarding take; these rules help the reintroduction and management of an experimental population to be compatible with most routine human activities in the expected reestablishment area. The proposed prohibitions and exceptions for grizzly bears in the NEP area are as follows:

Defense of life—Grizzly bears in the NEP may be taken in self-defense or in defense of others, based on a good-faith belief that the actions are necessary to protect any individual from bodily harm.

Deterrence—Livestock owners, beekeepers, orchardists, farmers, or other individuals are authorized to conduct deterrence of grizzly bears for the purposes of avoiding human–bear conflicts or to discourage bears from using areas near homes and other human-occupied areas. Individuals may deter grizzly bears away from the immediate vicinity 200 yards (yd) (182 meters (m)) of a human-occupied residence or potential conflict area, such as a barn, livestock corral, chicken coop, grain bin, or schoolyard. Once bears have moved beyond the immediate vicinity 200 yd (182 m), hazing is unlikely to be effective and should cease. Any deterrence must not cause lasting bodily injury or death to the grizzly bear. Any person who deters a grizzly bear must use discretion and act safely and responsibly in confronting nuisance grizzly bears. The USFWS provides guidelines for safe and responsible hazing of grizzly bears in the USFWS Grizzly Bear Hazing Guidelines (USFWS 2020, entire).

Incidental take—''Incidental take'' is take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity; it must be unintentional and not due to negligent conduct. Individuals will not be in violation of the Act for taking a grizzly bear of the NEP, provided: (1) the take is incidental to, and not the purpose of, an otherwise lawful activity; (2) they promptly report the take to the USFWS; and (3) if the take occurs on National Forest System lands within the NEP area, that the USFS has maintained its ''no net-loss of core'' approach and implemented food storage restrictions throughout Management Zone 1. To avoid illegally shooting a grizzly bear, persons lawfully engaged in hunting and shooting activities must correctly identify their target before shooting. The act of taking a grizzly bear that is wrongfully identified as another species is not considered incidental take and may be referred to appropriate authorities for prosecution.

The ''no net-loss of core'' approach is described above under *Threats.* Given the importance of maintaining core habitats and restricting human disturbance in these habitats for grizzly bear population establishment and persistence, we are proposing that the exception to the prohibition against incidental take on lands managed by the USFS as National Forest System lands under this 10(j) rule is contingent upon maintenance and implementation of that longstanding approach within the NCE Recovery Zone. This exception would apply to lands managed by the USFS as National Forest System lands throughout the NEP, contingent on the continued use of the ''no-net-loss-of-core'' approach on USFS lands in Management Zone 1. We are currently coordinating with the USFS to memorialize the ''no-net-loss of core'' approach for the U.S. portion of the NCE in an updated MOU.

Research, recovery actions, and relocation—If we adopt the 10(j) rule as proposed, any employee or agent of the USFWS, and any employee or agent of another Federal, State, or Tribal entity who, as part of their official duties, normally handles large carnivores and is trained and/or experienced in immobilizing, marking, and handling grizzly bears (which we define as a Federal, State, or Tribal ''authority''), may, when acting in the course of official duties, take a grizzly bear in the wild in the NEP area without a permit if such action is necessary for scientific purposes, to aid a law enforcement investigation, to euthanize an injured individual, to dispose of or salvage a dead individual for scientific purposes, or to relocate a grizzly bear to enhance conservation, including to avoid conflict with human activities, to prevent a grizzly bear from becoming habituated to humans, to improve grizzly bear survival and recovery prospects or for genetic purposes, or to relocate nontarget grizzly bears that have been incidentally trapped. Relocation sites will be identified in remote areas away from homes, developed areas, and concentrated human use. When a grizzly bear is captured, the employee or agent will consult with the appropriate land management agency to determine a relocation site that is most suitable for the bear, considering age/sex of the bear, conflict history, and current human use at available relocation sites. Such taking must be coordinated with the USFWS. Non-USFWS or other non-authorized personnel must acquire a permit from the USFWS for these activities.

Removal of grizzly bears involved in conflict—Grizzly bears can cause significant property damage, including depredation, or pose a threat to human safety if they become food conditioned, *i.e.,* if they have learned to associate human presence with anthropogenic food because of repeatedly being rewarded with food without consequence (Beausoleil et al. 2022, p. 96). When it is not reasonably possible to eliminate such threat by securing attractants, less-than-lethal deterrence, or relocation, we propose to allow lethal removal of a grizzly bear involved in conflict under certain conditions. Lethal removal of grizzly bears involved in conflict in Management Zone 1 may be conducted by authorized Federal, State, or Tribal authorities in accordance with Service-approved interagency guidelines.

To become an ''authorized'' Federal, State, or Tribal authority, we must have a written agreement addressing grizzly bear management, such as: an MOU specific to implementing this proposed 10(j) rule; a conference opinion issued by the USFWS to a Federal agency pursuant to section 7(a)(4) of the Act; an agreement under section 6 of the Act as described in 50 CFR 17.31 for State game and fish agencies with authority to manage grizzly bears; or a valid permit issued by the USFWS pursuant to § 17.32. In addition, conditioned lethal take for livestock owners may be authorized by the USFWS after a confirmed livestock depredation in Management Zone 2. Management Zone 3 will also allow conditioned lethal take authorization for landowners if the USFWS or an authorized agency determines that grizzly bears present a demonstrable and ongoing threat to human safety or to lawfully present livestock, domestic animals, crops, beehives, or other property, and that it is not reasonably possible to otherwise eliminate the threat by live-capturing and releasing the grizzly bear unharmed.

Management Zone Proposed Management Actions

Management Zone 1 (see *Management Zones* above) proposed management actions include: take of bears in self-defense or defense of others; exemption of take resulting from otherwise lawful activities (*e.g.,* timber harvest, road

construction, recreation); intentional deterrence of bears for the purposes of avoiding human–bear conflict and that does not cause harm or death; exemption of take associated with research and recovery actions; relocation or deterrence of bears by Federal, State, or Tribal authorities for recovery purposes; and lethal removal by Federal, State, or Tribal authorities of grizzly bears involved in conflict if a ''conflict bear'' determination has been made according to Service-approved interagency guidelines that it is not reasonably possible to eliminate the threat through nonlethal means.

Management Zone 2 (see *Management Zones* above) proposed management actions include all actions authorized for Management Zone 1, plus: the ability for Federal, State, or Tribal authorities to relocate bears for single-conflict incidents and the ability for USFWS to issue written time-limited conditioned lethal take authorization to a livestock owner if a depredation of livestock has been confirmed.

Management Zone 3 (see *Management Zones* above) proposed management actions include all actions authorized for Management Zones 1 and 2, plus: the ability for Federal, State, or Tribal authorities to relocate any bear as a preemptive action to prevent conflict and the ability for USFWS or an authorized agency to issue written time-limited conditioned lethal take authorization to a private landowner to kill a bear presenting an ongoing threat to human safety, livestock, or other property (*e.g.,* compost, chickens, beehives) if there is a demonstrable and ongoing threat and when it is not reasonably possible to eliminate the threat through nonlethal means.

Prohibited Activities

The proposed 10(j) rule would prohibit individuals to possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any grizzly bear or part thereof from the experimental population taken in violation of the 10(j) rule or in violation of applicable Tribal or State laws or regulations or the Act. The proposed 10(j) rule would also make it unlawful for individuals to attempt to commit, solicit another to commit, or cause to be committed, any take of the grizzly bear, except as expressly allowed in the 10(j) rule.

Public Awareness and Cooperation

Coinciding with the November 14, 2022, publication in the **Federal Register** of the notice of intent to prepare an EIS (87 FR 68190), we issued a joint news release with the NPS announcing the EIS process and proposed section 10(j) rulemaking and seeking comments as part of the EIS scoping phase. The news release was shared directly with counties and municipalities in the ecosystem, nongovernmental organizations, and other stakeholders. During the 30-day scoping phase, four informational virtual public meetings were held, inviting the public to ask questions about the EIS process, section 10(j) experimental populations, and grizzly bear recovery. Representatives from the Service and NPS also participated in numerous news media interviews to raise awareness about the EIS process, section 10(j) rulemaking, and associated public comment period.

Similar techniques will be used during the comment period for the proposed 10(j) rule and DEIS to increase awareness and engage the public, including the distribution of a news release, virtual and in-person public meetings, media features, and the direct sharing of information. If the USFWS decides to designate grizzly bears reintroduced to the U.S. portion of the NCE as a nonexperimental population with the 10(j) rule, further public outreach and education will occur, both in the media and in the community. This may take the form of educational programs in local communities on the topics of bear conflict prevention and the management tools available under the 10(j) rule. Direct outreach and briefings to local governments and community organizations are also anticipated. Many different Federal, State, Tribal, and local government agencies and organizations in the State of Washington have wildlife education programs that can be partnered with and supported.

Interagency Consultation

As stated above under *Statutory and Regulatory Framework,* for purposes of section 7(a)(2) of the Act, our section 10(j) regulations (50 CFR 17.83) provide that NEPs are treated as species proposed for listing under the Act except on NPS and NWRS lands, where they are treated as a threatened species for the purposes of section 7(a)(2) consultations. Therefore, Federal agency actions not affecting NPS lands or NWRS lands would be required only to confer with the USFWS under the terms of section 7(a)(4) of the ESA. On the other hand, Federal agency actions affecting grizzly bears within the experimental population area on NPS lands or NWRS lands would be required to consult with the USFWS under section 7(a)(2) of the ESA. The provisions of section 7(a)(1) of the ESA would still apply within the NEP area.

Review and Evaluation of the Success or Failure of the NEP

Monitoring and Evaluation

All translocated grizzly bears will be fitted with global positioning system (GPS) collars prior to release to aid in monitoring habitat use and spatial distribution, and tissue samples will be collected to establish baseline information for genetic monitoring purposes. Monitoring of the releases and subsequent population monitoring will follow radio collaring and genetic monitoring techniques used in the Cabinet Mountains grizzly bear augmentation effort (Kasworm et al. 2022a, pp. 9–16). Periodic recaptures will be conducted to maintain a GPS-collared sample of the population. Other monitoring is likely to include habitat and resource selection, reproductive success and rate of population growth, genetic composition of the population, and instances of conflicts between humans and grizzly bears. Radio collars that communicate locations from satellites to biologists via periodic downloads will limit the need for aircraft monitoring. However, periodic use of fixed-wing aircraft will be necessary to determine reproductive status. Camera stations and hair-snagging corrals will also be established in remote locations to monitor grizzly bear presence and gather genetic information that could also be used to assess reproductive contributions and monitor genetic diversity.

The USFWS will monitor the status of grizzly bears in the NEP annually and will evaluate the status of grizzly bears in the NEP in conjunction with our species status assessments and status reviews of the grizzly bear. Evaluations in our status reviews will include, but not be limited to: a review of management issues; grizzly bear movements; demographic rates; causes of mortality; project costs; and progress toward establishing a self-sustaining population.

Adaptive Management

We anticipate that our management will be adaptive, in that we will incorporate new information during the restoration effort. If modifications to grizzly bear monitoring and management are needed, we will coordinate closely with NPS, WDFW, USFS, Tribal Governments, and others to ensure progress toward achieving recovery goals while concurrently minimizing human–grizzly bear conflicts in the NEP area.

Exit Strategy

In light of the positive 90-day finding on two petitions to delist grizzly bears in the NCDE and the GYE (see *Previous Federal Actions,* above), we acknowledge that the boundaries of the listed entity may change in the future. We anticipate leaving the experimental population designation in place until all grizzly bears have been delisted due to recovery, regardless of whether the boundaries of the listed entity change. However, if grizzly bears experience unexpectedly high natural mortality, if donor bears are not available, or if we conclude that we and our partners have insufficient funding for an extended period to support management of the NEP, we may consider ending the releases and repealing the NEP designation. This would be done only after close coordination with partners and a new public process where we would propose to repeal the NEP before making any decisions to exit the restoration program.

Consultation With State, Local, Tribal, Federal, and Affected Private Landowners

In April 2018, the USFWS reached out to more than 90 agencies and organizations, including Federal, State, and local elected officials; federally recognized Tribes in Washington and Montana; natural resource and land management agencies; interest groups (including those representing timber, ranching or farming, and recreation interests), and environmental and conservation organizations to discuss a potential section 10(j) experimental population rulemaking and a zoned management approach for possible grizzly bear restoration efforts in the NCE. Between May and July 2018, the USFWS held more than 30 meetings with representatives from 49 different agencies and organizations for receiving feedback on the management framework and the zoned management approach.

In addition, as noted above, the NPS and USFWS provided an opportunity for the public to submit scoping comments on the potential inclusion of a 10(j) rule as part of alternatives to be described through the EIS process. Public scoping meetings were held in November 2022, and the public scoping comment period concluded in December 2022. Feedback from the 2018 outreach meetings and the 2022 EIS scoping period specific to the 10(j) rule were used in the development of this proposed rule.

Findings

Based on the best scientific information available, as described above and in accordance with 50 CFR 17.81, we find that releasing grizzly bears into the NCE would further the conservation of the species, but that this population is not essential to the continued existence of the species in the wild.

Required Determinations

Regulatory Planning and Review—Executive Orders 12866, 13563, and 14094

Executive Order 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866, E.O. 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. We have developed this proposed rule in a manner consistent with these requirements.

E.O. 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rulemaking action is significant.

The North Cascades Ecosystem Grizzly Bear Restoration Plan/DEIS analyzes the potential impacts of restoration of grizzly bears to the North Cascades including potential impacts to visitor use and recreational experience (NPS and USFWS 2023, pp. 110–123), human safety (NPS and USFWS 2023, pp. 124–132), and socioeconomic effects of the restoration of grizzly bear on various sectors in a seven-county area (including gateway communities) (NPS and USFWS 2023, pp. 133–148). The DEIS evaluation includes the impacts of restoration of grizzly bear as managed under this proposed section 10(j) rule, which is the agencies' preferred alternative (NPS and USFWS 2023, pp. 35–46). As stated above under *Information Requested,* the DEIS is available for comment from the NPS,

The DEIS evaluates impacts to visitor use and recreational use experience qualitatively. Recreational use of Federal land in the NCE is estimated to be more than 8 million recreation visitor-days per year, most of which is associated with dispersed recreation rather than developed campgrounds or wilderness areas (NPS and USFWS 2023, p. 111). Potential beneficial and adverse impacts on visitor use and experience could result from the initial restoration of grizzly bears in the NCE, and visitation could increase or decrease depending on visitor interest in or aversion to them (NPS and USFWS 2023, p. 119). Benefits would be derived from the restoration of the grizzly bear population and the opportunity provided to visitors to see grizzly bears in their natural setting. Adverse impacts would include the potential for temporary closures lasting from a few hours to a few days, requiring some visitors to adjust their stay to avoid closed areas, and noise associated with helicopter operations. Compared to current conditions, these impacts, in addition to past, present, and reasonably foreseeable planned actions, would be beneficial. Restoration under this proposed rule would allow for greater wildlife management flexibility that would provide an additional increment of benefit to the visitor use and recreational experience by minimizing negative human–bear conflicts (NPS and USFWS 2023, pp. 123–124).

For potential impacts to public and employee safety, the DEIS qualitatively addresses risks associated with human–grizzly bear encounters related to employees working to restore and manage bears, as well as risks to visitors and residents in and around the NCE (NPS and USFWS 2023, p. 127). Overall, restoration of grizzly bears would have adverse impacts on public and employee safety in terms of potential conflicts with grizzly bears. However, the probability of adverse impacts occurring would be low for a variety of reasons. Restoration would begin in remote areas and occur in low density, and even as density increases as the target population is achieved, existing safety and related protocols would be implemented, such as food storage restrictions, general bear safety education, temporary public closures, and management protocols for the capture and release of bears. These tools have been demonstrated to be effective in reducing impacts to public safety, even in areas with a much higher density of grizzly bears than projected for the ultimate population targeted in this proposal (NPS and USFWS 2023, pp. 130–131). With the implementation of this proposed section 10(j) rule, additional management measures would be available to authorized agencies to use lethal and nonlethal measures to reduce impacts from grizzly bears that move outside the ecosystem, or to mitigate human–grizzly bear conflicts,

including those associated with public safety. These management actions could further reduce the potential for human–bear conflicts and would contribute a reduced potential for adverse impacts on visitor and employee safety (NPS and USFWS 2023, p. 133).

The DEIS evaluates the socioeconomic impacts of the proposed restoration considering a seven-county region of influence (Chelan, King, Kittitas, Okanogan, Skagit, Snohomish, and Whatcom Counties) (NPS and USFWS 2023, p. 133), qualitatively assessing potential impacts to tourism, agricultural and livestock grazing, and timber harvest and mining, as well as the effects to employment in each of these categories. For tourism, occasional localized wilderness closures for public safety during release activities could occur, but these closures would be site-specific and short (hours to days). These closures are not expected to substantially affect tour operators or recreational visitors, including hunters or horseback riders. Any area closures are anticipated to be infrequent and small in scope; therefore, revenue and employment associated with tourism, including hunting, horseback riding, hiking, sightseeing, and tour operations, would not be noticeably affected as a result of implementing restoration under this proposed section 10(j) rule. Collaboration with potential user groups and public outreach and education would likely mitigate many potential tourism-related concerns as wilderness users become accustomed to backcountry practices that reduce chances for negative interactions with grizzly bears. Therefore, potential adverse tourism-related impacts would be mitigated to the extent that no adverse impacts on tourism are expected (NPS and USFWS 2023, p. 148).

Agriculture and livestock grazing operations could experience reduced employment or increased costs of operating cattle ranching operations. Direct impacts may occur through grizzly bear depredation of cattle or sheep. Impacts are somewhat less likely to occur given that no staging or release areas would be near active grazing allotments. Specific descriptions of the effects of potential livestock depredation are described in the DEIS on pages 143–146 and further analyzed in *Regulatory Flexibility Act (5 U.S.C. 601 et seq.),* below. Impacts on timber harvesting and mining from restoration of grizzly bears are anticipated to be intermittent and short term, lasting minutes to hours, as workers become aware of grizzly bear presence in the area, and grizzly bears avoid areas of active timber harvest and mining (NPS and USFWS, p. 148).

As to employment, restoration of bears could result in impacts on employment related to tourism (both positive and negative), agriculture, livestock grazing, mining, timber harvest, wildlife management, or Federal land management. Wildlife management and Federal land management may experience increases in employment resulting from implementation of this proposed section 10(j) rule as wildlife and Federal land managers capture and release grizzly bears and educate the public.

As displayed in the DEIS, implementation of a proposed section 10(j) designation is expected to reduce the potential for any adverse socioeconomic impacts as compared with other proposed restoration alternatives. The proposed section 10(j) designation allows for additional management measures for lethal and nonlethal actions to minimize and prevent human–grizzly bear conflicts. Additionally, the section 10(j) designation eliminates the requirement for Federal agencies to consult with the Service under section 7(a)(2) of the ESA (except on National Park System or National Wildlife Refuge System lands) for livestock grazing, timber harvest, and mining operations on Federal lands, and under this proposed section 10(j) rule, incidental take of grizzly bear could occur on USFS lands within the NEP area under certain circumstances. As a result, implementation of the proposed section 10(j) designation for grizzly bears would reduce the potential costs and operational constraints that may have temporarily affected regular business operations from the presence of grizzly bear.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We certify that this proposed rule would not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include such businesses as manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and forestry and logging operations with fewer than 500 employees and annual business less than $7 million. To determine whether small entities may be affected, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

Importantly, the impacts of a rule must be both significant and substantial to prevent certification of the rule under the Regulatory Flexibility Act and to require the preparation of an initial regulatory flexibility analysis. If a substantial number of small entities are affected by the proposed rule, but the per-entity economic impact is not significant, the USFWS may certify. Likewise, if the per-entity economic impact is likely to be significant, but the number of affected entities is not substantial, the USFWS may also certify.

Because of the regulatory flexibility provided by designating an NEP in the NCE, we expect this rule not to have significant effects on any activities within Federal lands within the experimental population area. In regard to section 7(a)(2) of the Act, except on National Park Service and National Wildlife Refuge System lands, the population is treated as proposed for listing, and Federal action agencies are not required to consult on their activities. Section 7(a)(4) of the Act

requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a proposed species. However, because a nonessential experimental population is, by definition, not essential to the survival of the species, conferencing is unlikely to be required within the NEP. State or private entities pursuing actions with a Federal nexus, such as for grazing permits, timber harvest, or mining claims on USFS lands, will experience no consultation requirements under section 7(a)(2) of the Act (NPS and USFWS 2023, p. 148). In addition, section 7(a)(1) of the ESA requires Federal agencies to use their authorities to carry out programs to further the conservation of listed species, which would apply on any lands within the experimental population area. As a result, and in accordance with these regulations, if we adopt this rule as proposed, some modifications to the Federal actions within the experimental population area may occur to benefit the grizzly bear, but we do not expect projects on Federal lands to be precluded or likely to be substantially modified as a result of these regulations.

However, this proposed rule, if finalized, would govern the management of reintroduced grizzly bears in the NCE. The presence of reintroduced grizzly bears has the potential to affect small entities involved in ranching and livestock production, particularly beef cattle ranching (business activity code North American Industry Classification System (NAICS) 112111) and sheep farming (business activity code NAICS 112410).

Small businesses involved in ranching and livestock production may be affected by grizzly bears depredating on domestic animals, particularly beef cattle and sheep. Direct effects to small businesses could include forgone calf or cow sales at auctions due to depredations. Indirect effects could include impacts such as increased ranch operation costs for surveillance and oversight of the herd. However, as detailed further below, we do not foresee a significant economic impact to a substantial number of small entities in the ranching and livestock production sector; in addition, the proposed rule designating the grizzly bears as experimental with this special management rule under section 10(j) is in part designed to help minimize the potential for conflicts that could increase costs to ranching and livestock production.

The small size standard for beef cattle farming entities and sheep farms as defined by the Small Business Administration are those entities with less than $2.5 million for beef cattle ranching and $3.5 million for sheep farming in average annual receipts (*https://www.sba.gov/document/support-table-size-standards*). As of 2017, there were approximately 9,088 cattle and calf farms and approximately 1,930 sheep farms in Washington (USDA 2019, p. 181). Of these, 13 beef cattle farms and zero sheep farms had average annual receipts above the Small Business Administration thresholds for small entities (USDA 2019, p. 181). Therefore, we find the vast majority of cattle ranches and sheep farms in the State of Washington potentially affected by the reintroduction and management of grizzly bears to be small entities.

Because the reintroduction of grizzly bears will primarily occur only on Federal lands within Management Zone 1, the DEIS evaluates a seven-county region of influence (ROI) that includes Chelan, King, Kittitas, Okanogan, Skagit, Snohomish, and Whatcom Counties. While these counties contain several larger cities, including Bellingham, Everett, Seattle, and Wenatchee, the NCE is located in a predominantly rural area away from large urban areas. The area that covers the NCE makes up approximately 52 percent of the total land area of the ROI (NPS and USFWS, p. 133). Approximately 25 percent of farms in the State of Washington occur in the ROI (NPS and USFWS, p. 138). Therefore, we estimate approximately 2,272 cattle and calf farms and 483 sheep farms in the ROI. The actual number of farms that may be affected is far less than 25 percent because the grizzly bear release areas primarily occur on Federal lands and do not overlap with active grazing allotments, the ROI includes several counties that extend beyond the borders of the NCE Recovery Zone, and the farms occur in areas where we do not expect grizzly bear occupancy due to low habitat suitability (NPS and USFWS, p. 145).

As of 2015, 773,788 acres of land were actively under permit for cattle and sheep grazing on Okanogan-Wenatchee National Forest, with 320,044 acres occurring within the NCE. Most of the acreage permitted on Okanogan-Wenatchee National Forest was for cattle grazing. There are no grazing permits on Mt. Baker-Snoqualmie National Forest. The 2015 Okanogan-Wenatchee Allotment Information Sheet reports that there were 4,151 animal unit months (AUMs) of permitted sheep and 47,686 AUMS of permitted cattle grazing on national forests within the NCE. In 2015, 4,100 ewe/lamb pairs were grazing, and 4,552 cow/calf pairs were authorized to graze during the summer on national forest service allotments within the NCE. No livestock were present within the national park complex as of 2015 (NPS and USFWS, p. 138).

We assessed whether this proposed rule would have a significant economic impact by estimating the annual number of depredations we expect to occur when the grizzly bear population will be at the population goal of 200 (which is not expected for several decades). Grizzly bear depredation is highly variable between and among years. Estimates of potential grizzly bear depredation were generated using grizzly bear population estimates for the NCDE and livestock losses of cattle and sheep, generating an estimated annual rate of livestock loss per grizzly bear of 0.093 cattle and 0.019 sheep. When these rates were applied to an NCE grizzly bear population of 25, annual livestock loss estimates were 2 to 3 cattle and up to 1 sheep. When these rates were applied to an NCE grizzly bear population goal of 200, annual livestock loss estimates were 18 to 19 cattle and 3 to 4 sheep. Rates developed with these data may represent overestimates of expected livestock loss in restored populations of grizzly bears in the NCE if grizzly bears do not occupy private lands where more livestock may be present.

It is probable that the actual number of cattle and sheep killed per year would fall within the range of the two estimates (1–19 cattle per year and 1–4 sheep per year). The number would likely fall on the lower end of the range because of a number of factors, including juxtaposition of grizzly bear habitat and grazing; type of grazing operation; distribution and abundance of other predators; and abundance and distribution of prey. Even with this uncertainty, the total number of cattle and sheep depredated within the NCE would result in minimal, adverse impacts on agriculture and the livestock grazing industry, contributing to less than 0.01% of the total number of cattle and sheep in the ROI.

To the extent that some cattle farms will most likely not be impacted by grizzly bear recovery because they are not located in suitable habitat but are included in the total estimate of potentially affected farms, this estimate could understate the percentage of livestock potentially affected. However, for other reasons, this estimate could very well overstate the percentage of farms affected as we recognize that annual depredation events have not

been, and may not be, uniformly distributed across the farms operating in occupied grizzly bear range. Rather, grizzly bears seem to concentrate in particular areas where concentrated attractants occur within productive grizzly bear habitat. The extent of depredation would be most influenced by the extent that livestock overlap with grizzly bears, the size of the grazing operation, and the presence of attractants. Additionally, these impacts are somewhat less likely to occur given that no staging or release areas would overlap active grazing allotments.

As of 2017, 4,100 ewe/lamb pairs and 4,552 cow/calf pairs are authorized to graze during the summer on USFS allotments within the NCE. Few livestock are present within the central portion of the NCE because it is a national park. Because only approximately 3 to 7 bears per year would initially be released into the NCE, it is highly unlikely that depredation would occur during the primary phase; however, depredation is likely to increase in frequency as the population grows over time during the adaptive management phase.

Based on a weighted average market value for a depredated cow/calf of $1,021.33 ($2022) and for a depredated sheep of $311.96 ($2022), a total estimated depredation of 1–19 cattle per year and 1–4 sheep per year could result in a loss of revenue at auction ranging from $1,021.33 to $19,405.29 for cattle and $311.96 to $1,247.84 for sheep.

This proposed rule is assessed as alternative C in our DEIS, the preferred alternative for restoring grizzly bears to the North Cascades Ecosystem. Under this alternative, the designation of an experimental population with the special regulations of this proposed rule would allow several forms of take of grizzly bears on Federal and non-Federal land to address conflict situations between grizzly bears and livestock. These forms of take would generally not be allowed were reintroduced grizzly bears not designated as an experimental population, another alternative being considered in our DEIS. Additionally, grizzly bears would be released only into Federal lands in Management Zone 1, and while we anticipate that bears will move into areas within Management Zones 2 and 3, in these zones, any grizzly bear posing a demonstrable threat to human safety, livestock, or property may be relocated or removed by Federal, State, or Tribal authorities, or with prior written authorization from the USFWS, and any grizzly bear may be deterred to prevent conflict, provided the deterrence does not cause lasting bodily injury or death to the grizzly bear. These flexibilities further reduce the impacts to small businesses.

Agriculture and grazing operations located closest to release areas or high-quality grizzly bear habitat would be the most likely to be affected. However, adverse impacts on agriculture and livestock grazing would be limited compared to the total number of livestock present in or adjacent to the NCE. The potential for impacts would be further reduced by the implementation of this proposed rule, including associated conflict prevention efforts, including the public outreach on minimizing unsecured attractants (*e.g.,* Western Wildlife Outreach 2023; Braaten et al. 2013, pp. 7–8).

Based on the preceding information, we find that the impact of direct effects of grizzly bear depredations on livestock would not be significant. That is, less than 0.01% of the total number of cattle and sheep in the ROI could be affected, and the high end of the annual potential loss of revenue across all farms is estimated at approximately $22,000. We do not consider either the number of potential livestock affected nor the potential loss of revenue to be a significant economic impact. Considering that less than 25 percent of the total farms in Washington occur within the ROI and no farms occur within proposed grizzly bear release areas, far fewer than 25 percent of farms in Washington would be likely to experience economic impacts. While we are not able to quantify this number, we do find that there would not be a substantial number of small entities impacted.

For the above reasons and based on currently available information, we certify that, if adopted as proposed, the proposed nonessential experimental population designation of grizzly bears would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(1) This rule would not ''significantly or uniquely'' affect small governments. We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that, if adopted, this rulemaking would not impose a cost of $100 million or more in any given year on local or State governments or private entities. A small government agency plan is not required. Small governments would not be affected because the proposed NEP designation would not place additional requirements on any city, county, or other local municipalities.

(2) This rule would not produce a Federal mandate of $100 million or greater in any year (*i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act). This proposed NEP designation of the grizzly bear in the NCE would not impose any additional management or protection requirements on the States or other entities.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the proposed rule does not have significant takings implications. When reintroduced populations of federally listed species are designated as NEPs, the Act's regulatory requirements regarding the reintroduced population are significantly reduced.

A takings implication assessment is not required because this proposed rule (1) would not effectively compel a property owner to suffer a physical invasion of property, and (2) would not deny all economically beneficial or productive use of the land or aquatic resources. This proposed rule would substantially advance a legitimate government interest (conservation and recovery of a listed species) and would not present a barrier to all reasonable and expected beneficial use of private property.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, we have considered whether this proposed rule has significant federalism effects and have determined that a federalism assessment is not required. This proposed rule would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. In keeping with Department of the Interior policy, we requested information from and coordinated development of this proposed rule with the affected resource agencies in Washington. Establishing an experimental population of grizzly bears in the NCE Recovery Zone would contribute positively toward the status of the species, which in turn would be factored into future assessments of the status of grizzly bears in the lower 48 States.

We acknowledge a Washington State law that addresses grizzly reintroduction in the State. Revised

Code of Washington 77.12.035, Protection of grizzly bears—*Limitation on transplantation or introduction—Negotiations with federal and state agencies,* provides as follows:

> The commission shall protect grizzly bears and develop management programs on publicly owned lands that will encourage the natural regeneration of grizzly bears in areas with suitable habitat. Grizzly bears shall not be transplanted or introduced into the state. Only grizzly bears that are native to Washington State may be utilized by the department for management programs. The department is directed to fully participate in all discussions and negotiations with federal and state agencies relating to grizzly bear management and shall fully communicate, support, and implement the policies of this section.

This State law provision governs only the activities of the Washington Department of Fish and Wildlife (WDFW) and prohibits WDFW from transplanting or introducing grizzly bears into the State (see Washington State Office of the Attorney General memorandum to the WDFW (WA AG in litt. 2017)). Further, the State provision is interpreted to require WDFW to protect grizzly bears and develop programs that will encourage their natural regeneration on public lands with suitable bear habitat, and to allow for WDFW's engagement in monitoring, habitat enhancement, and to respond to grizzly bears that are endangering public safety or damaging private property. Id.

We developed this proposed rule in cooperation with WDFW, and in consideration of this Washington State law; grizzly bear reintroduction would occur on Federal lands administered by the NPS or the USFS, and efforts from WDFW to transplant or introduce grizzly bears would not be required. The proposed rule would provide for the State's participation in the management of bears introduced by Federal agencies on Federal lands within the State. For these reasons, no intrusion on State policy or administration is expected, roles or responsibilities of Federal or State governments would not change, and fiscal capacity would not be substantially directly affected. The proposed rule would operate to maintain the existing relationship between the State and the Federal Government and is being undertaken in coordination with the State of Washington. Therefore, this proposed rule does not have significant federalism effects or implications to warrant the preparation of a federalism assessment pursuant to the provisions of E.O. 13132.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988 (February 7, 1996; 61 FR 4729), the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system and would meet the requirements of sections (3)(a) and (3)(b)(2) of the Order.

Paperwork Reduction Act

This proposed rule contains existing and new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The Service will ask OMB to review and approve the new information collection requirements contained in this rulemaking related to the establishment of an NEP of the grizzly bear in the State of Washington, under section 10(j) of the ESA. OMB has previously approved the information collection requirements associated with permitting requirements associated with native endangered and threatened species, and experimental populations, and assigned OMB Control Number 1018–0094, ''Federal Fish and Wildlife Permit Applications and Reports—Native Endangered and Threatened Species; 50 CFR parts 10, 13, and 17'' (expires January 31, 2024).

Experimental populations established under section 10(j) of the Act, as amended, require information collection and reporting to the Service. The Service would collect information on the grizzly bear NEP to help further the recovery of the species and to assess the success of the reintroduced populations. There are no forms associated with this information collection. The respondents would notify the Service when an incident occurred, so there would be no set frequency for collecting the information. Other Federal agencies would provide the Service with the vast majority of the information on experimental populations under cooperative agreements for the conduct of the recovery programs. However, the public also would provide some information to the Service. The proposed new information collection requirements identified below require approval by OMB:

1. *Appointment of designated agent*—A designated agent is an employee of a Federal, State, or Tribal agency that is authorized by the Service to conduct grizzly bear management. A prospective designated agent would submit a letter to the Service requesting designated agent status. The letter would include a proposal for the work to be completed and resume of qualifications for the work they wish to perform. The Service would then respond to the requester with a letter authorizing them to complete the work.

2. *Reporting requirements*—The respondents would notify the Service when an incident occurred, so there would be no set frequency for collecting the information. Other Federal agencies would provide the Service with the vast majority of the information on experimental populations under cooperative agreements for the conduct of the recovery programs. However, the public also would provide some information to the Service. Reporting parties would include, but would not be limited to, individuals or households, businesses, farms, nonprofit organizations, and State/local/Tribal governments. The Service would collect the information by means of telephone calls or emails from the public to Service offices specified in the individual regulations. Standard information collected would include:

a. Name, address, and phone number of reporting party.

b. Species involved.

c. Type of incident.

d. Take (quantity).

e. Location and time of reported incident.

f. Description of the circumstances related to the incident.

3. Some of these contacts would be necessary follow-up reports under rules where the Service has authorized deterrence or lethal take of experimental animals (*e.g.,* livestock depredation or in defense of human life). The Service would collect information in three categories:

a. *General take or removal.* This type of information relates to nonlethal take that does not result in the death of a grizzly bear, as well as human-related mortality including unintentional taking incidental to otherwise lawful activities (*e.g.,* highway mortalities), animal husbandry actions authorized to manage the populations (*e.g.,* translocation or providing aid to sick, injured, or orphaned individuals), take in defense of human life, take related to defense of property (if authorized), or take in the form of authorized deterrence.

- Lethal take must be reported within 24 hours to both the Resident Agent in Charge and either the Service's Grizzly Bear Recovery Coordinator or the Service's Washington Fish and Wildlife Office.
- Nonlethal take must be reported within 5 days to either the Service's

Grizzly Bear Recovery Coordinator or the Service's Washington Fish and Wildlife Office.

b. *Depredation-related take.* This type of reporting involves take for management purposes where depredation of livestock or guard dogs is documented and may include authorized deterrence or authorized lethal take of experimental animals in the act of attacking livestock or guard dogs.

c. *Recovery or reporting of dead individuals and specimen collection from experimental populations.* This type of information is for the purpose of documenting incidental or authorized scientific collection. Most of the contacts with the public would deal primarily with the reporting of sightings of experimental population animals, or the inadvertent discovery of an injured or dead individual.

4. *Memorandums of Understanding (MOUs)*—The Service would establish MOUs with Federal, State, or Tribal authorities related to the necessary relocation of bears, authorize lethal take of bears within 100 yards (91 m) of legally present livestock or guard dogs if depredation has been confirmed by the Service or Washington Department of Fish and Wildlife (WDFW), when necessary for public safety, or to protect property. The Service would collect information in three categories:

a. *Relocation of bears.* Authorized Service, Federal, State, or Tribal authorities may live-capture any grizzly bear occurring in the NEP area to improve grizzly bear survival or recovery. Authorized Service, Federal, State, or Tribal authorities may live-capture grizzly bears in proposed Management Zones 2 or 3 and transport and release those grizzly bears in a remote area (1) if they depredate legally present livestock, (2) if necessary to prevent unnatural use of food materials that have been reasonably secured from the bear, or (3) after aggressive (not defensive) behavior toward humans that constitutes a demonstrable immediate or potential threat to human safety and/or that results in a human injury. Additionally, authorized Service, Federal, State, or Tribal authorities may live-capture any grizzly bear occurring in proposed Management Zone 3 and transport and release bears as a preemptive action to prevent a conflict that appears imminent or in an attempt to break habituated behavior of bears lingering near human-occupied areas.

b. *Conditioned lethal take.* With prior written agreement from the Service, livestock owners may lethally take a grizzly bear within 100 yards (91 m) of legally present livestock in proposed Management Zones 2 and 3 if a depredation has been confirmed by the Service or an authorized agency. Additionally, the Service, or its designated agents, are authorized to issue prior written authorization to any individual to kill a grizzly bear in proposed Management Zone 3 when necessary for public safety or to protect property.

c. *Removal of grizzly bears involved in conflict.* Authorized Service, Federal, State, or Tribal authorities may lethally take a grizzly bear in the NEP area if is not reasonably possible to otherwise eliminate the threat by non-lethal deterrence or live capturing and releasing the grizzly bear unharmed in a remote area agreed to by FWS, WDFW, and the applicable land management agency and if the taking is done in a humane manner. Grizzly bears may be taken in self-defense or in defense of other persons, based on a good-faith belief that the actions taken were to protect the person from bodily harm.

5. *Recovery or reporting of dead individuals and specimen collection from experimental populations*—This type of information would be for the purpose of documenting incidental or authorized scientific collection and surrender of grizzly bear carcasses as the result of lethal take. Most of the contacts with the public deal primarily would be with the reporting of sightings of experimental population animals, or the inadvertent discovery of an injured or dead individual.

6. *Obtaining Landowner/Land Management Entity Authorization*—Individuals requesting the written authorizations mentioned above must obtain authorization from the landowner or land management entity, where appropriate.

The Service would use the information described above to document the locations of reintroduced animals, determine causes of mortality and conflict with human activities so that Service managers could minimize conflicts with people, and improve management techniques for reintroduction. The information would help the Service assess the effectiveness of control activities and develop means to reduce problems with livestock for those species where depredation is a problem. Service recovery specialists would use the information to determine the success of reintroductions in relation to established recovery plan goals for the threatened and endangered species involved.

Title of Collection: Endangered and Threatened Wildlife, Experimental Populations—Grizzly Bear (50 CFR 17.84).

OMB Control Number: 1018–New.

Form Numbers: None.

Type of Review: New.

Respondents/Affected Public: Individuals; private sector; and State/local/Tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually for annual report and on occasion for other requirements.

Total Estimated Annual Nonhour Burden Cost: None.

Requirement	Number of annual respondents	Number of annual responses each	Total annual responses	Average completion time	Total annual burden hours
Appointment of Designated Agent:					
Individuals	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Private Sector	1	1	1	30 min (reporting); 30 min (record-keeping).	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Notification—General Take or Removal (Lethal Take):					
Individuals	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Private Sector	1	1	1	30 min (reporting); 30 min (record-keeping).	1

Requirement	Number of annual respondents	Number of annual responses each	Total annual responses	Average completion time	Total annual burden hours
State/Local/Tribal Gov't	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Notification—General Take or Removal (Nonlethal Take):					
Individuals	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Private Sector	1	1	1	30 min (reporting); 30 min (record-keeping).	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Notification—Recovery or Reporting of Dead Specimen and Specimen Collection:					
Individuals	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Private Sector	1	1	1	30 min (reporting); 30 min (record-keeping).	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Memorandums of Understanding—Relocation of Bears:					
Individuals	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Private Sector	1	1	1	30 min (reporting); 30 min (record-keeping).	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Memorandums of Understanding—Conditioned Lethal Take:					
Individuals	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Private Sector	1	1	1	30 min (reporting); 30 min (record-keeping).	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Memorandums of Understanding—Removal of Bears:					
Individuals	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Private Sector	1	1	1	30 min (reporting); 30 min (record-keeping).	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Obtaining Landowner/Land Management Entity Authorization:					
Individuals	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Private Sector	1	1	1	30 min (reporting); 30 min (record-keeping).	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting); 30 min (record-keeping).	1
Totals:	*24*	.....	*24*	.....	*24*

Send your written comments and suggestions on this information collection by the date indicated in **DATES** to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018—Grizzly in the subject line of your comments.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (NEPA), we have analyzed the environmental impacts of this proposed rule. We have prepared, jointly with NPS, a DEIS to describe the impacts of restoring grizzly bears to the NCE and establishment of the restored population as experimental and managed in accordance with this proposed rule. The DEIS evaluates options for a regulatory framework, including a rule consistent with section 10(j) of the Act, for the reintroduction and management of grizzly bears in part of the species' historical range in Washington. The DEIS analyzes potential environmental impacts that may result from two action alternatives and the no-action alternative and includes relevant and reasonable measures that could avoid or mitigate potential impacts. The DEIS is available for public review and comment by the NPS as described above in *Information Requested.* We will

complete our NEPA analysis and take that information into consideration in determining whether to finalize and implement this proposed rule.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), E.O. 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. In accordance with Secretary's Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

Throughout the development of this proposed rule, we have sought the input of Tribal governments near the proposed release site as well as Tribal governments near the potential source populations in the NCDE and GYE. In collaboration with the NPS, we extended an invitation for government-to-government consultation to all federally recognized Tribes in the proposed NEP area and formally met with Tribes that have requested government-to-government consultation. Corresponding with the start of the EIS process in November 2022, all Tribes in Washington, and the Nez Perce Tribe in Idaho were invited to consult on grizzly bear recovery and the DEIS assessing options to restore grizzly bears to the NCE. An invitation to consult specifically on the development of the 10(j) rule was also sent to all Tribes in Washington in February 2023. Invitations to consult were also sent in March 2023 to Tribal governments near the potential source populations in the NCDE and GYE, including in the States of Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. We are available to meet with other Tribes that request government-to-government or informal consultation and will fully consider information and comments received through the consultation process. We will also consider all comments received from Tribes and Tribal members during the public comment period on this proposed rule.

Energy Supply, Distribution, or Use (E.O. 13211)

Executive Order 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. This proposed rule is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Clarity of This Regulation (E.O. 12866)

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;
(b) Use the active voice to address readers directly;
(c) Use clear language rather than jargon;
(d) Be divided into short sections and sentences; and
(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

References Cited

A complete list of all references cited in this proposed rule is available upon request from our Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**) or online at *https://www.regulations.gov* in Docket No. FWS–R1–ES–2023–0074.

Authors

The primary authors of this proposed rule are staff of the USFWS Washington Fish and Wildlife Office, along with staff of the Grizzly Bear Recovery Program (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11 in paragraph (h) by revising the entry for ''Bear, grizzly'' under MAMMALS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
		MAMMALS		
*	*	*	*	*
Bear, grizzly	*Ursus arctos horribilis*	U.S.A., conterminous (lower 48) States, except where listed as an experimental population.	T	32 FR 4001, 3/11/1967; 35 FR 16047, 10/13/1970; 40 FR 31734, 7/28/1975; 72 FR 14866, 3/29/2007; 75 FR 14496, 3/26/2010; 82 FR 30502, 6/30/2017; 84 FR 37144, 7/31/2019; 50 CFR 17.40(b).[4d]
Bear, grizzly [Bitterroot XN].	*Ursus arctos horribilis*	U.S.A. (portions of ID and MT; see § 17.84(l))..	XN	65 FR 69624, 11/17/2000; 50 CFR 17.84(l).[10j]

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
Bear, grizzly [North Cascades XN].	*Ursus arctos horribilis*	U.S.A. (WA, except the portion of northeastern Washington defined by the Kettle River from the international border with Canada, downstream to the Columbia River to its confluence with the Spokane River, then upstream on the Spokane River to the WA–ID border; see § 17.84(y))..	XN	[**Federal Register** citation of the final rule]; 50 CFR 17.84(y).[10j]
*	*	*	*	* * *

■ 3. Amend § 17.84 by:
■ a. Revising paragraph (l) introductory text and paragraph (l)(1); and
■ b. Adding paragraph (y).

The revisions and addition read as follows:

§ 17.84 Species-specific rules—vertebrates.

* * * * *

(l) Grizzly bear (*Ursus arctos horribilis*)—Bitterroot nonessential experimental population.

(1) *Where does this rule apply?* (i) The rule in this paragraph (l) applies to the designated Bitterroot Grizzly Bear Experimental Population Area (Experimental Population Area), which is found within the species' historic range and is defined in paragraph (l)(1)(ii) of this section.

(ii) The boundaries of the Experimental Population Area are delineated by U.S. 93 from its junction with the Bitterroot River near Missoula, Montana, to Challis, Idaho; Idaho 75 from Challis to Stanley, Idaho; Idaho 21 from Stanley to Lowman, Idaho; State Highway 17 from Lowman to Banks, Idaho; Idaho 55 from Banks to New Meadows, Idaho; U.S. 95 from New Meadows to Coeur d'Alene, Idaho; Interstate 90 from Coeur d'Alene, Idaho, to its junction with the Clark Fork River near St. Regis, Montana; the Clark Fork River from its junction with Interstate 90 near St. Regis to its confluence with the Bitterroot River near Missoula, Montana; and the Bitterroot River from its confluence with the Clark Fork River to its junction with U.S. Highway 93, near Missoula, Montana (See map at the end of this paragraph (l)).

* * * * *

(y) Grizzly bear (*Ursus arctos horribilis*)—North Cascades nonessential experimental population.

(1) *Definitions.* Key terms used in this paragraph (y) have the following definitions:

Authorized agency means a Federal, State, or Tribal agency designated by the Service in:

(A) A memorandum of understanding to assist in implementing all or in part the specified actions in this paragraph (y);

(B) A conference opinion issued by the Service to a Federal agency pursuant to section 7(a)(4) of the Act;

(C) Section 6 of the Act as described in § 17.31 for State game and fish agencies with authority to manage grizzly bears; or

(D) A valid permit issued by the Service pursuant to § 17.32.

Depredation means the confirmed killing or wounding of lawfully present livestock by one or more grizzly bears. The Service or an authorized agency must confirm grizzly bear depredation on lawfully present livestock. Livestock trespassing on Federal lands are not considered lawfully present.

Deterrence means an intentional action to haze, disrupt, or annoy a grizzly bear away from the immediate vicinity (200 yards (182 meters)) of a human-occupied residence or potential conflict area with humans, such as a barn, livestock corral, chicken coop, grain bin, or schoolyard.

(A) Once bears have moved beyond the immediate vicinity, hazing is unlikely to be effective and should cease.

(B) Any such action must not cause lasting bodily injury or death to the grizzly bear; refer to current Service grizzly bear hazing guidelines for appropriate methods.

(C) Persons may not attract, track, wait for, or search out a grizzly bear for the purposes of deterrence.

(D) Any person who deters a nuisance grizzly bear must use discretion and act safely and responsibly in confronting the grizzly bear.

Domestic animal means an individual of an animal species that has been selectively bred over many generations to enhance specific traits for their use by humans, including for use as pets. Domestic animal includes livestock.

Federal, State, or Tribal authority means an employee or designee of a State, Federal, or Indian Tribal government who, as part of their official duties, normally handles large carnivores and is trained and/or experienced in immobilizing, marking, and handling grizzly bears.

Grizzly bear involved in conflict means a grizzly bear that has caused depredation to lawfully present livestock; used foods that are unnatural for grizzly bear consumption and that had been reasonably secured; displayed toward humans aggressive behavior that constitutes a demonstrable or potential threat to human safety; or has had an encounter with people resulting in a substantial human injury or loss of human life.

Livestock means cattle, sheep, pigs, horses, mules, goats, domestic bison, alpacas, llamas, donkeys, and herding and guarding animals (*e.g.,* dogs used for herding or guarding livestock). Livestock excludes poultry. Livestock also excludes nonferal dogs that are not being used for livestock guarding or herding.

(2) *Where is the grizzly bear designated as a nonessential experimental population (NEP)?* (i) The grizzly bear NEP includes Washington State except the portion of northeastern Washington defined by the Kettle River from the international border with Canada, downstream to the Columbia River, to its confluence with the Spokane River, then upstream on the Spokane River to the Washington–Idaho border. As provided by 16 U.S.C. 1539(j)(2)(C)(ii), the NEP does not include critical habitat under the Act. The area shown in figure 1 to paragraph (y)(2) of this section will remain designated as an experimental

population unless future rulemaking determines:

(A) The reintroduction has not been successful, in which case the NEP boundaries might be altered or the regulations in this paragraph (y) might be removed; or

(B) The grizzly bear is recovered and delisted in accordance with the Act.

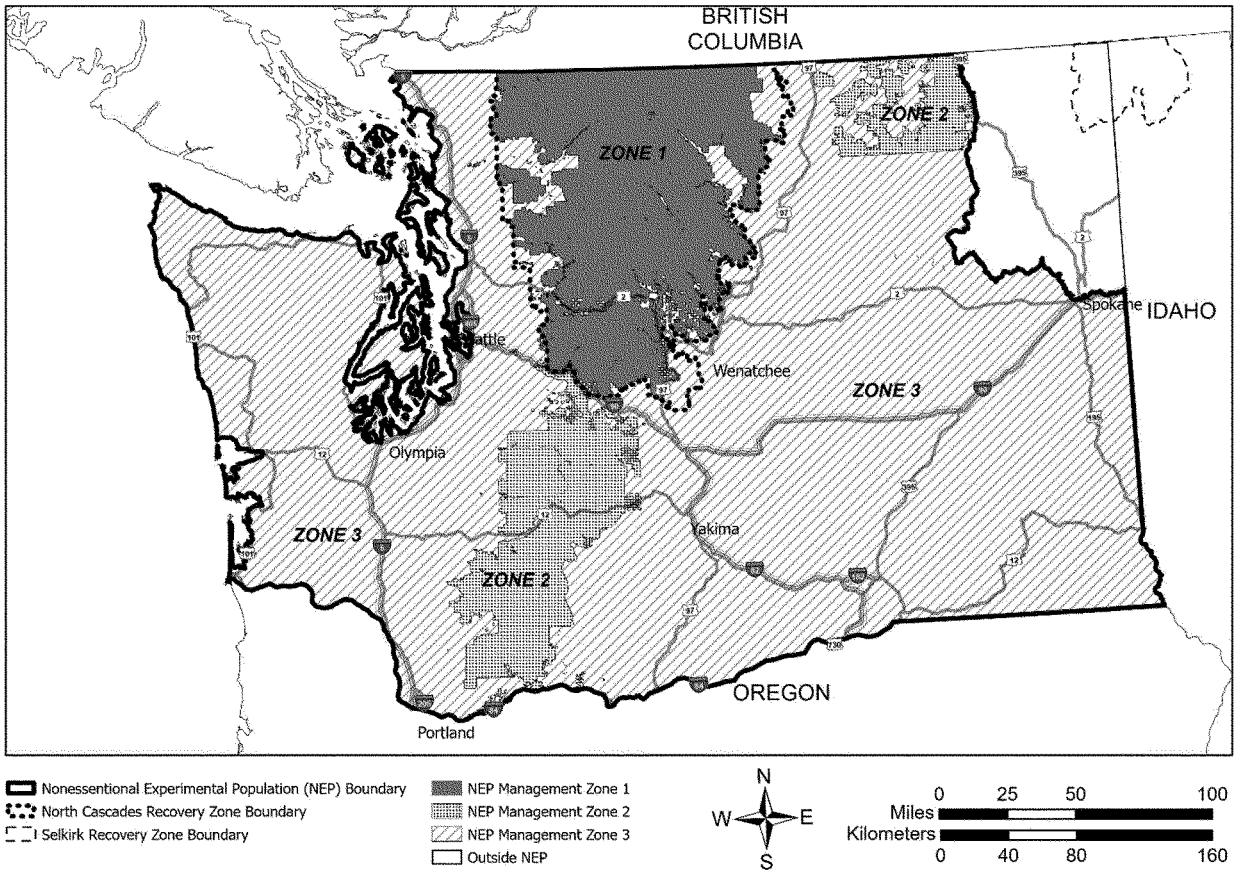
(ii) Management Zone 1 includes the Mt. Baker-Snoqualmie National Forest and Okanogan-Wenatchee National Forest north of Interstate 90 and west of Washington State Route 97, as well as the North Cascades National Park Service complex. Management Zone 1 will be the primary area for restoration of grizzly bears and will serve as core habitat for survival, reproduction, and dispersal of the NEP.

(iii) Management Zone 2 includes the Mt. Baker-Snoqualmie National Forest and Okanogan-Wenatchee National Forest south of Interstate 90, Gifford Pinchot National Forest, and Mount Rainier National Park. Management Zone 2 also includes the Colville National Forest and Okanogan-Wenatchee National Forest lands east of Washington State Route 97 within the experimental population boundary. Management Zone 2 includes areas that may be used for natural movement and/or dispersal by grizzly bears and that have a lower potential for human–bear conflicts.

(iv) Management Zone 3 comprises all other lands outside of Management Zones 1 and 2 within the NEP boundary. Management Zone 3 contains large areas that may be incompatible with grizzly bear presence due to high levels of private land ownership and associated development and/or potential for bears to become involved in conflicts with resultant bear mortality, although some areas within this management zone are capable of supporting grizzly bears and grizzly bears may occur there.

(v) Map of the NEP area and associated management zones for the grizzly bear in the North Cascades Ecosystem follows:

Figure 1 to paragraph (y)(2)



(3) *What take of the grizzly bear is allowed in Management Zone 1 of the NEP area?* The exceptions to take described in paragraphs (y)(3)(i) through (vi) of this section apply in Management Zone 1:

(i) *Defense of life.* Grizzly bears may be taken in self-defense or in defense of other persons, based on a good-faith belief that the actions taken were to protect the person from bodily harm. Such taking must be reported as described in paragraph (y)(6) of this section.

(ii) *Deterrence.* Livestock owners, beekeepers, orchardists, farmers, or other individuals are authorized to conduct deterrence of grizzly bears for the purposes of avoiding human–bear conflicts.

(iii) *Incidental take.* Take of a grizzly bear is allowed if:

(A) The take is incidental to, and not the purpose of, an otherwise lawful activity and the take is reported as soon as possible as provided under paragraph (y)(6) of this section; or

(B) The take occurs on National Forest System lands and the U.S. Forest Service has maintained its ''no-net-loss-of-core'' approach and implemented food storage restrictions throughout Management Zone 1.

(C) Persons lawfully engaged in hunting and shooting activities must correctly identify their target before shooting to avoid illegally shooting a grizzly bear. The act of taking a grizzly

bear that is wrongfully identified as another species is not considered incidental take and may be referred to appropriate authorities for prosecution.

(iv) *Take under permits.* Any person with a valid permit issued under § 17.32 by the Service or a designated agent may take grizzly bears pursuant to the terms of the permit.

(v) *Research and recovery actions.* An authorized agency as defined in paragraph (y)(1) of this section may take grizzly bears within the NEP area if such action is necessary:

(A) For scientific purposes;

(B) To relocate or harass (as defined in § 17.3) grizzly bears within the NEP area to improve grizzly bear survival or recovery;

(C) To address conflicts with ongoing or proposed activities in an attempt to improve grizzly bear survival;

(D) To aid a sick, injured, or orphaned grizzly bear, including lethal removal for humane purposes;

(E) To salvage a dead specimen that may be useful for scientific study;

(F) To dispose of a dead specimen; or

(G) To aid in law enforcement investigations involving the grizzly bear.

(vi) *Removal of grizzly bears involved in conflict.* A grizzly bear involved in conflict may be taken, up to and including lethal removal, but only if:

(A) It is not reasonably possible to otherwise eliminate the threat by nonlethal deterrence or live-capturing and releasing the grizzly bear unharmed in a remote area agreed to by the Service, the Washington Department of Fish and Wildlife, and the applicable land management agency; and

(B) The taking is done in a humane manner by a Federal, State, or Tribal authority of an authorized agency and in accordance with Service-approved interagency guidelines.

(vii) *Reporting requirements.* Any take pursuant to this paragraph (y)(3) must be reported as indicated in paragraph (y)(6) of this section.

(4) *What take of the grizzly bear is allowed in Management Zone 2 of the NEP area?* Grizzly bears in Management Zone 2 will be accommodated through take allowances described in paragraphs (y)(4)(i) and (ii) of this section, in addition to those allowed in Management Zone 1 (see paragraph (y)(3) of this section). ''Accommodated'' means grizzly bears that move outside Management Zone 1 into these specified areas of Federal lands in the NEP will not be disturbed unless they demonstrate an immediate threat to human safety or livestock.

(i) *Relocation of bears.* With prior approval from the Service, a Federal, State, or Tribal authority may live-capture grizzly bears in Management Zone 2 and transport and release those grizzly bears in a remote location agreed to by the Service, the Washington Department of Fish and Wildlife, and the applicable land managing agency for any of the following reasons:

(A) When necessary for the purposes of enhancing conservation.

(B) After depredation of lawfully present livestock or unnatural use of food materials that had been reasonably secured from the bear, resulting in conditioning of the bear or significant loss of property.

(C) After aggressive (not defensive) behavior toward humans results in injury to a human or constitutes a demonstrable immediate or potential threat to human safety.

(ii) *Conditioned lethal take.* With prior written authorization from the Service or authorized agency, livestock owners may lethally take a grizzly bear within 100 yards (91 m) of legally present livestock, but only if:

(A) A depredation has been confirmed by the Service or authorized agency.

(B) It is not reasonably possible to otherwise eliminate the threat by nonlethal deterrence or live capturing and releasing the grizzly bear unharmed in a remote area. If, after 2 weeks from the confirmed depredation, no further depredations have occurred, the authorization will expire.

(C) The taking is done in a humane manner.

(D) The taking is reported as indicated in paragraph (y)(6) of this section.

(E) The grizzly bear carcass is surrendered to the Service.

(5) *What take of the grizzly bear is allowed in Management Zone 3 of the NEP area?* In addition to the take allowances described in paragraphs (y)(5)(i) and (ii) of this section, all take allowed in Management Zones 1 and 2 (see paragraphs (y)(3) and (4) of this section) are also allowed in Management Zone 3 of the NEP.

(i) *Relocation of any grizzly bear.* With prior approval from the Service, a Federal, State, or Tribal authority of an authorized agency may live-capture any grizzly bear occurring in Management Zone 3 and transport and release the bear in a remote location agreed to by the Service, the Washington Department of Fish and Wildlife, and the applicable land management agency as a preemptive action to prevent a conflict that appears imminent or in an attempt to break habituated behavior of bears lingering near human-occupied areas.

(ii) *Conditioned lethal take.* The Service, or authorized agency, may issue prior written authorization to any person to kill a grizzly bear in Management Zone 3 when necessary for public safety or to protect property, but only if:

(A) The Service or authorized agency determines that a grizzly bear presents a demonstrable and ongoing threat to human safety or to lawfully present livestock, domestic animals, crops, beehives, or other property; and that it is not reasonably possible to otherwise eliminate the threat by live-capturing and releasing the grizzly bear unharmed. Once the Service or authorized agency determines the threat is no longer ongoing, the authorizing agency will notify the person, terminating the authorization.

(B) The individuals requesting the written authorization are otherwise authorized by the landowner or relevant land management entity.

(C) The taking is done in a humane manner.

(D) The taking is reported as indicated in paragraph (y)(6) of this section.

(E) The carcass is surrendered to the Service.

(6) *What are the reporting requirements for take of grizzly bears in the NEP?* (i) *Lethal take.* Any grizzly bear that is killed under the provisions of this paragraph (y) must be reported within 24 hours to the Service.

(ii) *Nonlethal take.* Any take of a grizzly bear under the provisions of this paragraph (y) that does not result in the death but causes obvious injury to a grizzly bear must be reported within 5 calendar days of occurrence to the Service.

(7) *What take of the grizzly bear is not allowed in the NEP area?* (i) Other than expressly provided by the regulations in this paragraph (y), all other forms of take are considered a violation of section 9 of the Act. Any grizzly bear or grizzly bear part taken legally must be turned over to the Service unless otherwise specified in the regulations in this paragraph (y). Any take of grizzly bears must be reported as set forth in paragraph (y)(6) of this section.

(ii) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any grizzly bear or part thereof from the NEP taken in violation of paragraphs (y)(3) through (5) of this section or in violation of applicable Tribal or State laws or regulations or the Act.

(iii) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any take of the grizzly bear, except as expressly allowed in paragraphs (y)(3) through (5) of this section.

(8) *How will the effectiveness of the grizzly bear restoration effort be monitored?* The Service will monitor

the status of grizzly bears in the NEP annually and will evaluate the status of grizzly bears in the NEP in conjunction with the Service's species status assessments and status reviews of the grizzly bear. Evaluations in the Service's status reviews will include but not be limited to a review of management issues, grizzly bear movements, demographic rates, causes of mortality, project costs, and progress toward establishing a self-sustaining population.

Janine Velasco,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2023–21418 Filed 9–28–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 230919–0225]

RIN 0648–BM44

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Biennial Specifications; 2023–2024 and 2024–2025 Specifications for Pacific Mackerel

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes to implement allowable catch levels, an overfishing limit, an allowable biological catch, and an annual catch limit for Pacific mackerel in the exclusive economic zone off the U.S. West Coast (California, Oregon, and Washington) for the fishing years (seasons) 2023–2024 and 2024–2025. This proposed rule is made pursuant to the Coastal Pelagic Species Fishery Management Plan. The proposed harvest guideline and annual catch target for the 2023–2024 fishing season are 7,871 metric tons (mt) and 6,871 mt, respectively. The proposed harvest guideline and annual catch target for the 2024–2025 fishing season are 8,943 mt and 7,943 mt, respectively. If the fishery attains the annual catch target in either fishing season, the directed fishery will close, reserving the 1,000-mt difference between the harvest guideline and annual catch target as a set-aside for incidental landings in other Coastal Pelagic Species fisheries and other sources of mortality. This rulemaking is intended to conserve and manage the Pacific mackerel stock off the U.S. West Coast.

DATES: Comments must be received by October 30, 2023.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2023–0085, by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2023–0085 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Katie Davis, West Coast Region, NMFS, (323) 372–2126, *Katie.Davis@noaa.gov.*

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.,* NMFS manages the Pacific mackerel fishery in the U.S. exclusive economic zone (EEZ) off the West Coast in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The CPS FMP and its implementing regulations require NMFS to set annual harvest specifications for the Pacific mackerel fishery based on the annual specification framework and control rules in the FMP. The Pacific mackerel fishing season runs from July 1 to June 30. The purpose of this proposed rule is to implement these harvest specifications, which include allowable harvest levels (*i.e.,* annual catch target (ACT) and harvest guideline (HG)), an annual catch limit (ACL), and annual catch reference points (*i.e.,* overfishing limit (OFL) and acceptable biological catch (ABC)). The uncertainty surrounding the current biomass estimates for Pacific mackerel for the 2023–2024 and 2024–2025 fishing seasons was taken into consideration in the development of these harvest specifications. Any Pacific mackerel harvested between July 1, 2023, and the effective date of the final rule will count toward the 2023–2024 ACT and HG.

During public meetings held every other year, the NMFS Southwest Fisheries Science Center (SWFSC) presents biomass estimates for Pacific mackerel to the Pacific Fishery Management Council's (Council) CPS Management Team (CPSMT), the Council's CPS Advisory Subpanel (CPSAS) and the Council's Scientific and Statistical Committee (SSC), and the biomass estimates and the status of the fisheries are reviewed and discussed. The CPSMT, CPSAS, and SSC then provide recommendations and comments to the Council regarding the calculated OFL, ABC, ACL, HG, and ACT. Following Council review and after hearing public comment, the Council adopts biomass estimates and makes its harvest specification recommendations to NMFS. Pursuant to regulations at 50 CFR 660.508(e), NMFS publishes biennial specifications in the **Federal Register** that establish these allowable harvest levels (*i.e.,* ACT/HG) as well as OFL, ABC, and ACL for the upcoming two Pacific mackerel fishing seasons.

The control rules in the CPS FMP include the HG control rule, which, in conjunction with the OFL and ABC control rules, are used to manage Pacific mackerel. According to the FMP, the quota for the principal commercial fishery, the HG, is determined using the FMP-specified HG formula. The HG is based, in large part, on the estimate of stock biomass for the fishing year. The biomass estimate is an explicit part of the various harvest control rules for Pacific mackerel, and as the estimated biomass decreases or increases from one year to the next, the resulting allowable catch levels similarly trend. The harvest control rule in the CPS FMP is HG = [(Biomass − Cutoff) × Fraction × Distribution] with the parameters described as follows:

1. *Biomass.* The estimated stock biomass of Pacific mackerel for the 2023–2024 management season is 55,681 mt. The estimated stock biomass of Pacific mackerel for the 2024–2025 management season is 60,785 mt;

2. *Cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP establishes this level at 18,200 mt;

3. *Fraction.* The harvest fraction is the percentage of the biomass above 18,200 mt that may be harvested. This is set in the FMP at 30 percent; and

4. *Distribution.* Pacific mackerel range from Mexico to Alaska and regularly migrate between Mexico and the U.S. West Coast. Because some of the Pacific mackerel stock exists outside of U.S.

waters, the Distribution parameter is used to estimate the proportion of the total biomass in U.S. waters and to calculate U.S. catch limits. The average portion of the total Pacific mackerel biomass estimated in the U.S. West Coast EEZ is set in the FMP at 70 percent. The 70 percent distribution estimate is based on the average historical larval distribution obtained from scientific cruises and the distribution of the resource according to the logbooks of aerial fish-spotters.

The Council has recommended, and NMFS is proposing, Pacific mackerel harvest specifications for both the 2023–2024 and 2024–2025 fishing seasons. For the 2023–2024 Pacific mackerel fishing season these include an OFL of 11,693 mt, an ABC and ACL of 9,754 mt, a HG of 7,871 mt, and an ACT of 6,871 mt. For the 2024–2025 Pacific mackerel fishing season these include an OFL of 12,765 mt, an ABC and ACL of 10,073 mt, a HG of 8,943 mt, and an ACT of 7,943 mt. These catch specifications are based on the OFL and ABC control rules established in the CPS FMP, recommendations from the Council's SSC and other advisory bodies, and biomass estimates of 55,681 mt (2023–2024) and 60,785 mt (2024–2025). The biomass estimates are the result of a benchmark stock assessment the NMFS SWFSC completed in June 2023, which was reviewed by a Stock Assessment Review Panel.[1] At the June 2023 Council meeting, the Council's SSC reviewed and approved, and the Council adopted, the 2023 benchmark stock assessment and resulting biomass estimates as the best scientific information available for setting harvest specifications for the 2023–2024 and 2024–2025 Pacific mackerel fishing seasons.

Under this proposed action, in the unlikely event that catch reaches the ACT in either fishing season, directed fishing would close, reserving the difference between the HG and ACT (1,000 mt) as a set-aside for incidental landings in other fisheries and other sources of mortality.[2] For the remainder of the fishing season, incidental landings in CPS fisheries would be constrained to a 45 percent incidental catch allowance (in other words, no more than 45 percent by weight of the CPS landed per trip may be Pacific mackerel); and in non-CPS fisheries, up to 3 mt of Pacific mackerel may be landed incidentally per fishing trip. The incidental set-aside is intended to allow continued operation of fisheries for other stocks, particularly other CPS stocks that may school with Pacific mackerel.

The NMFS West Coast Regional Administrator will publish a notice in the **Federal Register** announcing the date of any closure of directed fishing (when harvest levels reach or exceed the ACT). Additionally, to ensure the regulated community is informed of any closure, NMFS will also make announcements through other means available, including email to fishermen, processors, and state fishery management agencies.

Comments on this proposed rule and on NMFS' determination that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities (as discussed below in the Classification section), may be submitted via *https://www.regulations.gov* (see **DATES** and **ADDRESSES**).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The basis and purpose of this rulemaking is to set an OFL, ABC, ACL, HG, and ACT for the Pacific mackerel fishery based on the harvest control rules in the CPS FMP. These specific harvest control rules are applied to the current stock biomass estimate to derive these catch specifications, which are used to manage the commercial take of Pacific mackerel. A component of these control rules is that as the estimated biomass decreases or increases from one year to the next, so do the applicable quotas. The harvest control rules in the CPS FMP remain unchanged by this proposed action.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, for the following reasons:

For Regulatory Flexibility Act (RFA) purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates) and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

Pacific mackerel harvest is one component of CPS fisheries off the U.S. West Coast that also includes the fisheries for the Pacific sardine, northern anchovy, and market squid. Pacific mackerel are principally caught off southern California within the limited entry portion (south of 39 degrees N lat.; Point Arena, California) of the fishery. Currently there are 55 vessels permitted in the Federal CPS limited entry fishery off California. The average annual per vessel revenue in 2022 for vessels that landed Pacific mackerel was well below the threshold level of $11 million; therefore, all of these vessels are considered small businesses under the RFA.

Because each affected vessel is a small business, this proposed rule is considered to equally affect all of these small entities in the same manner. Additionally, the harvest specifications proposed in this rule would not constrain catch disproportionately for small entities in different size categories, as they remain well above the annual coastwide landings. Therefore, this rulemaking would not create disproportionate costs between small and large vessels/businesses.

NMFS used the ex-vessel revenue information for a profitability analysis, as the cost data for the harvesting operations of CPS finfish vessels was limited or unavailable. For the 2022–2023 fishing season, the HG was 5,822 mt with an ACT of 4,822 mt and an incidental set-aside of 1,000 mt. Approximately 886 mt of Pacific mackerel were harvested in the 2022–2023 fishing season with an estimated ex-vessel value of approximately $426,324.

The proposed HG for the 2023–2024 Pacific mackerel fishing season is 7,871 mt, with a proposed ACT of 6,871 mt and an incidental set-aside of 1,000 mt. The proposed HG for the 2024–2025 Pacific mackerel fishing season is 8,943 mt with a proposed ACT of 7,943 mt and an incidental set-aside of 1,000 mt. The proposed ACTs for these fishing seasons are slightly higher than the prior 2 fishing seasons (*i.e.,* 7,323 mt for 2021–2022 and 4,822 mt for 2022–2023). Pacific mackerel landings off the U.S. West Coast over the last 10

[1] Stock Assessment Review (STAR) Panel meetings are formal, public, multiple-day meetings of stock assessment experts who conduct a detailed technical evaluation of full (*e.g.,* benchmark) stock assessments. The 2023 Pacific Mackerel STAR Panel meeting was held April 11–13, 2023.

[2] Directed fishing for live bait and minor directed fishing is allowed to continue during a closure of the directed fishery.

management seasons (2012–2013 through 2021–2022) have averaged about 3,800 mt. Therefore, the ACTs proposed in this rule are not expected to affect profitability to the fleet from catching Pacific mackerel compared to last season or recent catch levels. Accordingly, vessel income from fishing is not expected to be altered as a result of this rulemaking as it compares to recent catches in the fishery, including under the previous season's regulations.

Based on the disproportionality and profitability analysis above, the proposed action, if adopted, will not have adverse or disproportional economic impact on these small business entities. As a result, an Initial Regulatory Flexibility Analysis is not required, and none has been prepared.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act. There are no relevant Federal rules that may duplicate, overlap, or conflict with the proposed action.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 26, 2023.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.511, revise paragraphs (i)(1) and (2) to read as follows:

§ 660.511 Catch restrictions.

* * * * *

(i) * * *

(1) For the Pacific mackerel fishing season July 1, 2023, through June 30, 2024, the harvest guideline is 7,871 mt and the ACT is 6,871 mt; and

(2) For the Pacific mackerel fishing season July 1, 2024, through June 30, 2025, the harvest guideline is 8,943 mt and the ACT is 7,943 mt.

* * * * *

[FR Doc. 2023–21410 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 88, No. 188
Friday, September 29, 2023

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are required regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by October 30, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

Farm Service Agency

Title: Farm Loan Program (FLP)—Online Loan Application.

OMB Control Number: 0560–NEW.

Summary of Collection: The Farm Service Agency (FSA) is implementing a new Online Loan Application to collect information electronically from the applicants and borrowers. FSA provides loans to family farmers to purchase real estate and equipment and finance agricultural production authorized under the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1921 and Pub. L. 87–128), as amended. Direct loan making information collection requirements include debt verifications, employment & income verification, and actual financial and production records of the operation.

Need and Use of the Information: FSA is collecting the information that is necessary to thoroughly evaluate the applicant's request for a direct loan to ensure that: the applicant meets the established program eligibility requirements; their cash flow projections used in determining loan repayment are based on the actual financial and production history of the operation and a loan is adequately secured. FSA is mandated to provide supervised credit, failure to collect the information, or collecting it less frequently, could result in the failure of the farm operation or loss of FSA security property. If the information were not collected, or collected less frequently, FSA would be unable to meet the congressionally mandated mission of the loan programs.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 21,610.

Frequency of Responses: Reporting: Other (when applying for loans).

Total Burden Hours: 59,389.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–21452 Filed 9–28–23; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2023–0061]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Commercial Transportation of Equines to Slaughter

AGENCY: Animal and Plant Health Inspection Service, USDA.

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

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the commercial transportation of equines to slaughtering facilities.

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

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

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2023–0061 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2023–0061, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

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

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the commercial transportation of equines to slaughter, contact Dr. Lisa Rochette, Equine Health Director, Strategy and Policy, VS, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606;

(801) 879–5156; *lisa.t.rochette@usda.gov.* For more information on the information collection reporting process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483; *joseph.moxey@usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Commercial Transportation of Equines to Slaughter.

OMB Control Number: 0579–0332.

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

Abstract: Sections 901–905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901) authorize the Secretary of Agriculture to issue guidelines for regulating the commercial transportation of equines to slaughter by persons regularly engaged in that activity within the United States. Specifically, the Secretary is authorized to regulate the food, water, and rest provided to these equines while the equines are in transit and to review related issues appropriate to ensuring that these animals are treated humanely.

To implement the provisions of this Act, the Animal and Plant Health Inspection Service (APHIS) within the U.S. Department of Agriculture (USDA) has established minimum standards to ensure the humane movement of equines to slaughtering facilities or to assembly points while en route to slaughtering facilities, via commercial transportation. These standards, contained in 9 CFR part 88, require that conveyances protect the health and well-being of the animals and meet certain other criteria; that double-decker conveyances are prohibited; and that access to food, water, and rest be provided to these animals 6 hours prior to shipment. APHIS' regulations also require the application of backtags and completion of owner/shipper certificates of fitness to travel to a slaughtering facility with identification of the animals and details of the transportation and signatures attesting to compliance with the provision of food, rest, and water and to the animal's fitness to travel. The regulations further prohibit the use of electric prods and state aggressive animals must be separated. Any owner/shipper transporting equines to slaughtering facilities outside the United States must present the owner-shipper certificates to USDA representatives at the border.

Implementing these regulations entails the use of information collection activities, such as providing business information; completing owner/shipper certificates of fitness to travel to a slaughtering facility; applying backtags, as needed; and maintaining records of the owner/shipper certificates and continuation sheets.

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

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

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

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Owners and shippers of slaughter horses, owners or operators of slaughtering facilities, and drivers of the transport vehicles.

Estimated annual number of respondents: 232.

Estimated annual number of responses per respondent: 69.

Estimated annual number of responses: 16,100

Estimated total annual burden on respondents: 4,049 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 25th day of September 2023.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–21303 Filed 9–28–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Supplemental Nutrition Assistance Program (SNAP) Retailer Applications

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

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection. FNS seeks OMB approval for the burden associated with SNAP application forms and other document requests that are necessary to effectively administer a large population of retailers, varied in type and scope, and ensure that these retailers remain in compliance with program requirements.

DATES: Written comments must be received on or before November 28, 2023.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this information collection. Comments may be submitted in writing by one of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments electronically.

Mail: Comments should be addressed to Marga Ortiz, Chief, Retailer Policy Branch, Retailer Policy Division, Supplemental Nutrition Assistance Program, 1320 Braddock Place, Alexandria, Virginia 22314.

FNS will summarize all responses to this notice and include them in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Marga Ortiz at 703–305–2546.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were

used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Supplemental Nutrition Assistance Program (SNAP) Store Applications.

Form Numbers: FNS–252; FNS–252–E; FNS–252–FE; FNS–252–R; FNS–252–2; and FNS–252–C.

OMB Control Number: 0584–0008.

Expiration Date: 1/31/2024.

Type of Request: Revision of a currently approved collection.

Abstract:

Section 9(a) of the Food and Nutrition Act of 2008, as amended (7 U.S.C. 2011 *et seq.*) (the Act), requires that FNS determine the eligibility of retail food stores and certain food service organizations to accept SNAP benefits, and to monitor them for compliance purposes and continued eligibility. FNS is also responsible for requiring updates to application information and reviewing retail food store applications at least once every five years to ensure that each firm is under the same ownership and continues to meet eligibility requirements. FNS relies on the information obtained from applicants to ensure that each retailer continues to meet SNAP eligibility requirements and effectuate the purposes of the program. The forms and other instruments in this information collection are voluntary; however, a retailer may not participate in SNAP without completing an application for FNS approval.

There are six forms associated with this approved Office of Management and Budget (OMB) information collection number 0584–0008—the Supplemental Nutrition Assistance Program Application for Stores, Forms FNS–252 (English and Spanish) and FNS–252–E (paper and online version respectively); Farmer's Market Application, Form FNS–252–FE; Meal Service Application, Form FNS–252–2;Reauthorization Application, Form FNS–252–R (form mailed or available electronically); and the Corporation Supplemental Application, Form FNS–252–C used for individual (chain) stores under a corporation. For new authorizations, the majority of applicants use form FNS–252 or FNS–252–E (paper or online, respectively). FNS–252–E and FNS–252–FE are true online forms with a different format than the paper version. For reauthorization, form FNS–252–R is used. It is available as a paper form and online in the exact same format as the paper form.

In addition to these forms, during new authorization or reauthorization, FNS may conduct an on-site store visit of the firm. The store visit of the firm helps FNS confirm that the information provided on an application is correct. An FNS representative or store visit contractor obtains permission to complete the store visit checklist, photograph the store and asks the store owner or manager about the continued ownership of the store. Previous submissions estimated that the retailer spent one minute interacting with the FNS representative or contractor during the store visit. Under this proposed revision, FNS is increasing the estimate to 10 minutes, which we believe is a more accurate estimate of the time the retailer must spend with the FNS representative or contractor.

Applicants using form FNS–252–E, FNS–252–FE, or electronically accessing FNS–252–R must self-register for a Level 1 access account through the USDA eAuthentication system prior to starting an online application. USDA eAuthentication facilitates the electronic authentication of an individual. Previous submissions included authorization applicants using FNS–252–E and FNS–252–FE but did not include burden estimates for electronic reauthorization applicants registering for eAuthentication access to complete FNS–252–R. Respondents using the electronic version of FNS–252–R are included under the proposed revision, in Table A below.

We are also taking this opportunity to more accurately reflect the burden hours for FNS–252–E and FNS–252–FE by accounting in this notice for time to gather documents. During the preparation of the last submission under Office of Management and Budget (OMB) Control Number 0584–0008, FNS consulted with stakeholders who commented that the burden for gathering information and completing the previous paper form FNS–252 was between 60 to 90 minutes. The Agency used this information to adjust the burden estimate for the paper version, FNS–252, but inadvertently failed to apply it to the electronic forms, FNS–252–E and FNS–252–FE, in the last submission. In Table A, below, we estimate 60 minutes per response for the FNS–252–E and FNS–252–FE and 90 minutes per response for the paper FNS–252, to account for time gathering documents.

We estimate that the average hours per response across all applications for this revised information collection will be 0.54, which is 32.1 minutes. This is an increase of .38 hours compared to the Agency's previous notice under OMB Control Number 0584–0008. The increase is due to our revision of estimated response times to more accurately reflect the burden on respondents, especially the increased estimated response time for the FNS–252–E.

FNS used Fiscal Year 2022 data in our calculations of burden estimates associated with this information collection as this was the most complete data available to us at this time. Table A below clarifies the burden of this information collection. The hours per response vary by the type of application used from 8 minutes to 1.5 hours. There are no recordkeeping, third-party or public disclosure burdens associated with the information collection.

Reporting

Affected Public: For-profit businesses; retail food stores; farmers' markets; military commissaries; and meal services.

Estimated Number of Respondents: 55,708.

Estimated Number of Responses per Respondent: 1.7.

Estimated Total Annual Responses: 95,038.3.

Estimated Time per Response: 0.54 hours.

Estimated Total Annual Burden on Respondents: 50,857.1 hours.

BILLING CODE 3410–30–P

Affected Public	Respondent Type	Description of collection activity	Form No.	Estimated Number of Respondents	Responses per Respondent	Total Annual responses	Estimated Hours Per Response	Estimated Total Burden Hours
		Applications Received	252	1,438.1	1.0	1,438.1	1.50	2,157.2
		Applications Received	252-E	29,152.0	1.0	29,152.0	1.00	29,152.0
		Applications Received	252-FE 252-E, 252-FE & e-	695.2	1.0	695.2	1.00	695.2
		E-Authentication[1]	252-R	41,525.2	1.0	41,525.2	0.13	5,536.7
		Applications Received	252-2	872.7	1.0	872.7	1.00	872.7
	SNAP retailers,	Applications Received	252-C	5,944.6	1.0	5,944.6	0.25	1,486.2
Farms, businesses and nonprofits	farmers' markets, and meal services	Store visits[2]		39,330.3	1.0	39,330.3	0.17	6,555.1
		Reauthorization	252-R	17,543.0	1.0	17,543.0	0.25	4,385.7
Subtotal for Farm & Business				**55,645.6**	**1.7**	**94,975.9**	**0.54**	**50,840.7**
Federal	Military Commissaries	Applications Received	252	1.0	1.0	1.0	1.00	1.0
		Reauthorization	252-R	61.3	1.0	61.3	0.25	15.3
Subtotal for Federal Respondents				**62.4**	**1.0**	**62.4**	**0.26**	**16.4**
Grand Total				**55,708.0**	**1.7**	**95,038.3**	**0.54**	**50,857.1**

1. Applications which require eAuthentication are not double-counted in the number of responses or respondents.

2. Respondents who receive store visits are the same respondents who submit various applications are not double-counted in the number of respondents.

Tameka Owens,

Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2023–21415 Filed 9–28–23; 8:45 am]

BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notices by the Intermountain Region, Utah, Idaho, Nevada, and Wyoming

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of newspapers of record.

SUMMARY: This notice lists the newspapers that will be used by the ranger districts, national forests, and the regional office of the Intermountain Region to publish legal notices required under the Code of Federal Regulations (CFR). The intended effect of this action is to inform interested members of the public which newspapers the Forest Service will use to publish notices of

proposed actions and notices of decision. This will provide the public with constructive notice of Forest Service proposals and decisions, provide information on the procedures to comment, object or appeal, and establish the date that the Forest Service will use to determine if comments or appeals/objections were timely.

DATES: The list of newspapers will remain in effect for one year from the date of publication, when another notice will be published in the **Federal Register**.

ADDRESSES: Judd Sampson, Regional Objections Coordinator, Intermountain Region, 324 25th Street, Ogden, UT 84401.

FOR FURTHER INFORMATION CONTACT: Judd Sampson, Regional Objections Coordinator, Intermountain Region, by telephone at 602–525–1914 or by email at *judd.sampson@usda.gov*.

SUPPLEMENTARY INFORMATION: The administrative procedures at 36 CFR 214, 218, and 219 require the Forest Service to publish notices in a newspaper of general circulation. The content of the notices is specified in 36 CFR 214, 218, and 219. In general, the notices will identify: the decision or project, by title or subject matter; the name and title of the official making the decision; how to obtain additional information; and where and how to file comments or appeals/objections. The date the notice is published will be used to establish the official date for the beginning of the comment or appeal/objection period.

The newspapers to be used are as follows:

Regional Forester, Intermountain Region

Regional Forester decisions affecting National Forests in Idaho: *Idaho Statesman.*

Regional Forester decisions affecting National Forests in Nevada: *Reno Gazette-Journal.*

Regional Forester decisions affecting National Forests in Wyoming: *Casper Star-Tribune.*

Regional Forester decisions affecting National Forests in Utah: *Salt Lake Tribune.*

Regional Forester decisions that affect all National Forests in the Intermountain Region: *Salt Lake Tribune.*

Ashley National Forest

Ashley Forest Supervisor decisions: *Vernal Express.*

District Ranger decisions for Duchesne, Roosevelt: *Uintah Basin Standard.*

Flaming Gorge District Ranger for decisions affecting Wyoming: *Rocket Miner.*

Flaming Gorge and Vernal District Ranger for decisions affecting Utah: *Vernal Express.*

Boise National Forest

Boise Forest Supervisor decisions: *Idaho Statesman.*

Cascade District Ranger decisions: *The Star-News.*

Emmett District Ranger decisions: *Emmett Messenger Index.*

District Ranger decisions for Idaho City and Mountain Home Districts: *Idaho Statesman.*

Lowman District Ranger decisions: *The Idaho World.*

Bridger-Teton National Forest

Bridger-Teton Forest Supervisor and District Ranger decisions: *Casper Star-Tribune.*

Caribou-Targhee National Forest

Caribou-Targhee Forest Supervisor decisions for the Caribou portion: *Idaho State Journal.*

Caribou-Targhee Forest Supervisor decisions for the Targhee portion: *Post Register.*

District Ranger decisions for Ashton, Dubois, Island Park, Palisades, and Teton Basin: *Post Register.*

District Ranger decisions for Montpelier, Soda Springs, and Westside: *Idaho State Journal.*

Dixie National Forest

Dixie Forest Supervisor decisions: *The Spectrum.*

District Ranger decisions for Cedar City and Pine Valley: *The Spectrum.*

District Ranger decisions for Escalante and Powell: *The Insider.*

Decisions affecting the former Teasdale Ranger District area of the Dixie National Forest; now managed by the Fishlake National Forest Fremont River District Ranger: *The Richfield Reaper.*

Fishlake National Forest

Fishlake Forest Supervisor and District Ranger decisions: *The Richfield Reaper.*

Humboldt-Toiyabe National Forest

Humboldt-Toiyabe Forest Supervisor decisions that encompass all or portions of both the Humboldt and Toiyabe National Forests: *Reno Gazette-Journal.*

Humboldt-Toiyabe Forest Supervisor decisions for the Humboldt portion: *Elko Daily Free Press.*

Humboldt-Toiyabe Forest Supervisor decisions for the Toiyabe portion: *Reno Gazette-Journal.*

Austin-Tonopah District Ranger decisions: *Reno Gazette-Journal.*

Bridgeport District Ranger decisions: *Reno Gazette-Journal.*

Carson District Ranger decisions: *Reno Gazette-Journal.*

Ely District Ranger decisions: *The Ely Times.*

Mountain City, Ruby Mountains, and Jarbidge District Ranger decisions: *Elko Daily Free Press.*

Santa Rosa District Ranger decisions: *Humboldt Sun.*

Spring Mountains National Recreation Area District Ranger decisions: *Las Vegas Review Journal.*

Manti-La Sal National Forest

Manti-La Sal Forest Supervisor decisions: *ETV News Sun Advocate (Emery Telcom).*

Ferron District Ranger decisions: *ETV News Progress (Emery Telcom).*

Moab District Ranger decisions: *The Times-Independent.*

Monticello District Ranger decisions: *San Juan Record.*

Price District Ranger decisions: *ETV News Sun Advocate (Emery Telcom).*

Sanpete District Ranger decisions: *Sanpete Messenger.*

Payette National Forest

Payette Forest Supervisor decisions: *Idaho Statesman.*

Council District Ranger decisions: *The Record Reporter.*

District Ranger decisions for Krassel, McCall, and New Meadows: *Star-News.*

Weiser District Ranger decisions: *Weiser Signal American.*

Salmon-Challis National Forest

Salmon-Challis Forest Supervisor decisions for the Salmon portion: *The Recorder-Herald.*

Salmon-Challis Forest Supervisor decisions for the Challis portion: *The Challis Messenger.*

District Ranger decisions for Lost River, Middle Fork, and Challis-Yankee Fork: *The Challis Messenger.*

District Ranger decisions for Leadore, North Fork, and Salmon-Cobalt: *The Recorder-Herald.*

Sawtooth National Forest

Sawtooth Forest Supervisor decisions: *Times-News.*

District Ranger decisions for Fairfield and Minidoka: *Times-News.*

Ketchum District Ranger decisions: *Idaho Mountain Express.*

Sawtooth National Recreation Area: *The Challis Messenger.*

Uinta-Wasatch-Cache National Forest

Forest Supervisor decisions for the Uinta portion, including the Vernon Unit: *Provo Daily Herald.*

Forest Supervisor decisions for the Wasatch-Cache portion: *Salt Lake Tribune.*

Forest Supervisor decisions for the entire Uinta-Wasatch-Cache: *Salt Lake Tribune.*

District Ranger decisions for the Heber-Kamas, Pleasant Grove, and Spanish Fork Ranger Districts: *Provo Daily Herald.*

District Ranger decisions for Evanston and Mountain View: *Uinta County Herald.*

District Ranger decisions for Salt Lake: *Salt Lake Tribune.*

District Ranger decisions for Logan: *Logan Herald Journal.*

District Ranger decisions for Ogden: *Standard Examiner.*

Dated: August 2, 2023.

Troy Heithecker,

Associate Deputy Chief, National Forest System.

[FR Doc. 2023–21487 Filed 9–28–23; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Guam Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Guam Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via Zoom at 9:30 a.m. ChST on Tuesday, October 17, 2023, (7:30 p.m. ET on Monday, October 16, 2023). The purpose of this meeting is to discuss the comments received at the public forum on August 30th, 2023.

DATES: Tuesday, October 17, 2023, from 9:30 a.m.–11 a.m. ChST (Monday, October 16, 2023, from 7:30 p.m.–9 p.m. ET).

ADDRESSES: The meeting will be held via Zoom.

Registration Link (Audio/Visual): https://www.zoomgov.com/j/1602094656.

Join by Phone (Audio Only): (833) 435–1820 USA Toll Free; Meeting ID: 160 209 4656.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, DFO, at *kfajota@usccr.gov* or (434) 515–2395.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email *lschiller@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to David Mussatt at *dmussatt@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Guam Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Agenda

I. Welcome & Roll Call

II. Announcements & Updates

III. Approval of Meeting Minutes

IV. Committee Discussion

V. Next Steps

VI. Public Comment

VII. Adjournment

Dated: September 26, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–21462 Filed 9–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–52–2023]

Foreign-Trade Zone (FTZ) 46, Notification of Proposed Production Activity; Patheon Pharmaceuticals Inc.; (Pharmaceutical Products); Cincinnati, Ohio

Patheon Pharmaceuticals Inc. (Patheon) submitted a notification of proposed production activity to the FTZ Board (the Board) for its facilities in Cincinnati, Ohio, within Subzone 46K. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on September 18, 2023.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.* The proposed finished product(s) and material(s)/component(s) would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed finished product is cancer treatment (active pharmaceutical ingredient—regorafenib) in finished dosage form (duty-free).

The proposed material/component is regorafenib active pharmaceutical ingredient (duty-free). The request indicates that the material/component is subject to duties under section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is November 8, 2023.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

FOR FURTHER INFORMATION, contact Diane Finver at *Diane.Finver@trade.gov.*

Dated: September 26, 2023.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2023–21459 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–51–2023]

Foreign-Trade Zone (FTZ) 29, Notification of Proposed Production Activity; Toyota Motor Manufacturing Kentucky, Inc.; (Dual Fuel Cell Modules); Georgetown, Kentucky

The Louisville & Jefferson County Riverport Authority, grantee of FTZ 29, submitted a notification of proposed production activity to the FTZ Board (the Board) on behalf of Toyota Motor Manufacturing Kentucky, Inc., located in Georgetown, Kentucky within Subzone 29E. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on September 21, 2023.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.* The proposed finished product(s) and material(s)/component(s) would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed finished product is dual fuel cell modules (duty rate is 2.5%).

The proposed foreign-status materials and components include: plastic components (oil fill hose; wiring harness clamps; piping clamps; clamps; fuel tube clamps); rubber components (fuel cell radiator hoses; reserve tank inlet hoses; fuel cell radiator hose sub-assemblies; fuel cell inverter cooling hose sub-assemblies); stainless steel tubes; steel components (flange bolts with washers; mounts for air cleaners; flange bolts; bolts with washers; nuts; hose clips); various assemblies (fuel cell cooling water ion exchanger; air cleaner with filter element; fuel cell generator; fuel cell exhaust tail pipe); and, hydrogen detectors (duty rate ranges from duty-free to 8.5%). The request indicates that certain materials/components are subject to duties under section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is November 8, 2023.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Juanita Chen at *juanita.chen@trade.gov.*

Dated: September 25, 2023.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2023–21375 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–913]

Certain Non-Refillable Steel Cylinders From India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain non-refillable steel cylinders (steel cylinders) from India for the period of investigation (POI) April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 29, 2023.

FOR FURTHER INFORMATION CONTACT: Shane Subler, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6241.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this countervailing duty (CVD) investigation on May 24, 2023.[1] On June 30, 2023, Commerce postponed the preliminary determination of this investigation until September 25, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are steel cylinders. For a complete description of the scope of this investigation, *see* Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that the Government of India did not act to the best of its ability to respond to Commerce's requests for information, Commerce has drawn an adverse inference where appropriate in selecting from among the facts otherwise available.[5] For a full description of the methodology underlying our preliminary

[1] *See Certain Non-Refillable Steel Cylinders from India: Initiation of Countervailing Duty Investigation,* 88 FR 33580 (May 24, 2023) (*Initiation Notice*).

[2] *See Certain Non-Refillable Steel Cylinders from India: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 88 FR 43295 (July 7, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Countervailing Duty Investigation of Certain Non-Refillable Steel Cylinders from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[5] *See* sections 776(a) and (b) of the Act.

determination, *see* the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination with the final determination in the companion antidumping duty (AD) investigation of steel cylinders from India based on a request made by the petitioner.[6] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than February 7, 2024, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. Pursuant to section 705(c)(5)(A)(i) of the Act, this rate shall normally be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. Because we have calculated an above-*de minimis* rate for both mandatory respondents that is not based entirely on section 776 of the Act, we have preliminarily assigned an all-others rate based on the weighted average of the estimated subsidy rates calculated for the mandatory respondents.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Bhiwadi Cylinders Private Limited[7]	1.91
Inox India Ltd. (Inox)	1.74
All Others	1.83

Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the ''Scope of the Investigation'' section entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

All submissions should be filed using ACCESS and must be served on interested parties.[9] An electronically filed document must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Standard Time by the due date specified above.[10] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[11]

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of steel cylinders from India are materially injuring, or threaten material injury to, the U.S. industry.[12]

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: September 25, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation is certain seamed (welded or brazed), non-refillable steel cylinders meeting the requirements of, or produced to meet the requirements of, U.S. Department of Transportation specification 39, TransportCanada specification 39M, or United Nations pressure receptacle standard ISO 11118 and otherwise meeting the description provided below (non-refillable steel cylinders). The subject non-refillable steel cylinders are portable and range from 100-cubic inch (1.6 liter) water capacity to 1,526-cubic inch (25 liter) water capacity. Subject non-refillable steel cylinders may be imported with or without a valve and/or pressure release device and are unfilled at the time of importation. Non-refillable steel cylinders filled with pressurized air otherwise meeting the physical description above are covered by this investigation.

Specifically excluded are seamless non-refillable steel cylinders.

The merchandise subject to this investigation is properly classified under statistical reporting numbers 7311.00.0060 and 7311.00.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). The merchandise may also enter under HTSUS statistical reporting numbers 7310.29.0030 and 7310.29.0065. Although the HTSUS

[6] *See* Worthington Industry's Letter, ''Petitioner's Request to Align Final Determination,'' dated September 22, 2023.

[7] As discussed in the Preliminary Decision Memorandum, Commerce preliminarily determines that Sapphire (India) Private Limited is cross-owned with Bhiwadi Cylinders Private Limited.

[8] *See* 19 CFR 351.309; 19 CFR 351.303 (for general filing requirements); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020).

[9] *See* 19 CFR 351.303.

[10] *See* 19 CFR 351.303(b)(1).

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[12] *See* section 705(b)(2) of the Act.

statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Scope Comments
V. Injury Test
VI. Subsidies Valuation Information
VII. Diversification of India's Economy
VIII. Use of Facts Otherwise Available and Adverse Inferences
IX. Analysis of Programs
X. Recommendation

[FR Doc. 2023–21552 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness: Notice of Public Meeting

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed topics of discussion for the upcoming public meeting of the Advisory Committee on Supply Chain Competitiveness (Committee).

DATES: The meeting will be held on October 25, 2023, from 10 a.m. to 3:30 p.m., eastern standard time (EST).

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Research Library (Room 1894), Washington, DC 20230. The meeting will also be held via Zoom.

FOR FURTHER INFORMATION CONTACT: Richard Boll, Designated Federal Officer, Office of Supply Chain, Professional & Business Services, International Trade Administration at Email: *richard.boll@trade.gov,* phone 571–331–0098.

SUPPLEMENTARY INFORMATION:

Background: The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. app.). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness and on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: *https://www.trade.gov/acscc.*

Matters To Be Considered: Committee members are expected to continue discussing the major competitiveness-related topics raised at the previous Committee meetings, including supply chain resilience and congestion; trade and competitiveness; freight movement and policy; trade innovation; regulatory issues; finance and infrastructure; and workforce development. The Committee's subcommittees will report on the status of their work regarding these topics. The agenda may change to accommodate other Committee business. The Office of Supply Chain, Professional, and Business Services will post the final detailed agenda on its website, *https://www.trade.gov/acscc.* The video with closed captioning of the meeting will also be posted on the Committee website.

The meeting is open to the public and press on a first-come, first-served basis. Space is limited. Please contact Richard Boll, Designated Federal Officer, at *richard.boll@trade.gov,* for participation information.

Dated: September 25, 2023.

Heather Sykes,

Director, Office of Supply Chain, Professional, and Business Services.

[FR Doc. 2023–21411 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–917]

Brass Rod From the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of brass rod from the Republic of Korea (Korea). The period of investigation is January 1, 2022, through December 31, 2022. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 29, 2023.

FOR FURTHER INFORMATION CONTACT: Toni Page or Lingjun Wang, AD/CVD Operations, Office OVII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1398 or (202) 482–2316, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). On May 24, 2023, Commerce published in the **Federal Register** the notice of initiation of this investigation.[1] On June 30, 2023, Commerce postponed the preliminary determination of this investigation until September 25, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is brass rod from Korea. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] We received comments from several interested parties concerning the scope of the antidumping duty (AD) and

[1] *See Brass Rod from India, Israel, and the Republic of Korea: Initiation of Countervailing Duty Investigations,* 88 FR 33566 (May 24, 2023) (*Initiation Notice*).

[2] *See Brass Rod from India, Israel, and the Republic of Korea: Postponement of Preliminary Determinations in the Countervailing Duty Investigations,* 88 FR 42300 (June 30, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of Brass Rod from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

countervailing duty (CVD) investigations as it appeared in the *Initiation Notice.*[6] For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[7] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice, see* Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[8] Furthermore, pursuant to section 776(a) of the Act, Commerce has preliminarily relied upon facts otherwise available, in part, for Booyoung Industry (BYI) and Daechang Co. Ltd (Daechang). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of brass rod from Korea based on a request made by the American Brass Rod Fair Trade Coalition and its members, Mueller Brass Co. and Wieland Chase LLC (collectively, the petitioners).[9] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than February 7, 2024, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated a *de minimis* rate for BYI. Therefore, the only rate that is not zero, *de minimis,* or based entirely on facts otherwise available is the rate calculated for Daechang. Consequently, the rate calculated for Daechang is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Booyoung Industry	0.43 (*de minimis*).
Daechang Co. Ltd.[10]	2.57.
All Others	2.57.

Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above. Because the subsidy rate for BYI is *de minimis,* Commerce is directing CBP not to suspend liquidation of entries of the merchandise from this company.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[11] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[12] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days

[6] *Id.*

[7] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[8] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[9] *See* Petitioners' Letter, ''Petitioner's Request for Alignment of the Countervailing Duty Investigations with the Concurrent Antidumping Duty Investigations,'' dated September 18, 2023.

[10] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Daechang Co. Ltd.: Essentech Co., Ltd.; Seowon Co., Ltd.; Taewoo Co., Ltd.; IN Steel Industry Co., Ltd.; and Affiliate A. Daechang requested business proprietary treatment for Affiliate A. Commerce is continuing to evaluate the request for proprietary treatment and intends to make a determination regarding the public disclosure of this entity's name before the final determination.

[11] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[12] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

after the final determination whether imports of brass rod from Korea are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: September 25, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are brass rod and bar (brass rod), which is defined as leaded, low-lead, and no-lead solid brass made from alloys such as, but not limited to the following alloys classified under the Unified Numbering System (UNS) as C27450, C27451, C27460, C34500, C35000, C35300, C35330, C36000, C36300, C37000, C37700, C48500, C67300, C67600, and C69300, and their international equivalents.

The brass rod subject to this investigation has an actual cross-section or outside diameter greater than 0.25 inches but less than or equal to 12 inches. Brass rod cross-sections may be round, hexagonal, square, or octagonal shapes as well as special profiles (*e.g.,* angles, shapes), including hollow profiles.

Standard leaded brass rod covered by the scope contains, by weight, 57.0–65.0 percent copper; 0.5–3.0 percent lead; no more than 1.3 percent iron; and at least 15 percent zinc. No-lead or low-lead brass rod covered by the scope contains by weight 59.0–76.0 percent copper; 0–1.5 percent lead; no more than 0.35 percent iron; and at least 15 percent zinc. Brass rod may also include other chemical elements (*e.g.,* nickel, phosphorous, silicon, tin, *etc.*).

Brass rod may be in straight lengths or coils. Brass rod covered by this investigation may be finished or unfinished, and may or may not be heated, extruded, pickled, or cold-drawn. Brass rod may be produced in accordance with ASTM B16, ASTM B124, ASTM B981, ASTM B371, ASTM B453, ASTM B21, ASTM B138, and ASTM B927, but such conformity to an ASTM standard is not required for the merchandise to be included within the scope.

Excluded from the scope of this investigation is brass ingot, which is a casting of unwrought metal unsuitable for conversion into brass rod without remelting, that contains, by weight, at least 57.0 percent copper and 15.0 percent zinc.

The merchandise covered by this investigation is currently classifiable under subheadings 7407.21.9000, 7407.21.7000, and 7407.21.1500 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheadings 7403.21.0000, 7407.21.3000, and 7407.21.5000. The HTSUS subheadings and UNS alloy designations are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Injury Test
VI. Subsidies Valuation Information
VII. Benchmark and Discount Rates
VIII. Diversification of Korea's Economy
IX. Use of Facts Otherwise Available
X. Analysis of Programs
XI. Recommendation

[FR Doc. 2023–21547 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut-To-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 30, 2023, the U.S. Department of Commerce (Commerce) published the notice of initiation and preliminary results of a changed circumstances review (CCR) of the antidumping duty (AD) order on certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea). For these final results, Commerce continues to find that the post-corporate reorganization Dongkuk Steel Mill Co., Ltd. (Dongkuk Steel) is the successor-in-interest to the pre-reorganization Dongkuk Steel. Furthermore, Dongkuk Steel is entitled to the former Dongkuk Steel's AD cash deposit rates with respect to entries of subject merchandise in each of the above-referenced proceeding.

DATES: Applicable September 29, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher Williams, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5166.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 2023, Commerce published the *Initiation and Preliminary Results,*[1] finding that the post-corporate reorganization Dongkuk Steel is the successor-in-interest to the pre-reorganization and identically named Dongkuk Steel, and should be assigned the same AD cash deposit rate assigned to the former Dongkuk Steel in each of the above-referenced proceeding.[2] In the *Initiation and Preliminary Results,* we provided all interested parties with an opportunity to comment and request a public hearing regarding our preliminary finding.[3] Dongkuk Steel submitted comments agreeing with our preliminary findings in full, and we received no other comments from interested parties.[4] Additionally, we received no requests for a public hearing from interested parties.

Scope of the Order [5]

The merchandise covered by the order is CTL plate from Korea. For a complete description of the scope of the order, *see* the *Initiation and Preliminary Results* PDM.[6]

Final Results of the Changed Circumstances Review

For the reasons stated in the *Initiation and Preliminary Results,* and because we received no comments from interested parties to the contrary, Commerce continues to find that new Dongkuk Steel is the successor-in-interest to former Dongkuk Steel and is entitled to the same AD cash deposit rate as former Dongkuk Steel with respect to entries of subject merchandise in the above-noted proceeding. As there are no changes from the *Initiation and Preliminary Results,* there is no decision memorandum accompanying this notice and the determination in the *Initiation and Preliminary Results* is hereby adopted as the final results of this CCR.

As a result of this determination and consistent with established practice, we find that Dongkuk Steel should receive the AD cash deposit rate previously

[1] *See Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review,* 88 FR 59869 (August 30, 2023) (*Initiation and Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See Initiation and Preliminary Results,* 88 FR at 59870.

[3] *Id.,* 88 FR at 59869.

[4] *See* Dongkuk Steel's Letter, ''Case Brief,'' dated September 13, 2023.

[5] *See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products from France, India, Indonesia, Italy, Japan and the Republic of Korea,* 65 FR 6585, 6586 (February 10, 2000).

[6] *See Initiation and Preliminary Results* and accompanying PDM.

assigned to former Dongkuk Steel. Consequently, Commerce will instruct U.S. Customs and Border Protection to suspend liquidation of all shipments of subject merchandise produced and/or exported by Dongkuk Steel and entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register** at the AD cash deposit rate in effect for former Dongkuk Steel. This cash deposit requirement shall remain in effect until further notice.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of 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 sanctionable violation.

Notification to Interested Parties

We are issuing this determination and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 351.221(c)(3).

Dated: September 22, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–21377 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–508–815]

Brass Rod From Israel: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of brass rod from Israel. The period of investigation is January 1, 2022, through December 31, 2022. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 29, 2023.

FOR FURTHER INFORMATION CONTACT: Zachary Shaykin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482- 2638.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). On May 24, 2023, Commerce published in the **Federal Register** the notice of initiation of this investigation.[1] On June 30, 2023, Commerce postponed the preliminary determination of this investigation until September 25, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCEESS). ACCESS is available to registered users at *https://accesss.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is brass rod from Israel. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] We received comments from several interested parties concerning the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations as it appeared in the *Initiation Notice.*[6] For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[7] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice, see* Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[8]

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of brass rod from Israel based on a request made by the American Brass Rod Fair Trade Coalition and its members, Mueller Brass Co. and Wieland Chase LLC (collectively, the petitioners).[9] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than February 7, 2024, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for

[1] *See Brass Rod from India, Israel, and the Republic of Korea: Initiation of Countervailing Duty Investigations,* 88 FR 33566 (May 24, 2023) (*Initiation Notice*).

[2] *See Brass Rod from India, Israel, and the Republic of Korea: Postponement of Preliminary Determinations in the Countervailing Duty Investigations,* 88 FR 42300 (June 30, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of Brass Rod from Israel,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 87 FR at 3971.

[6] *Id.*

[7] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[8] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[9] *See* Petitioners' Letter, ''Brass Rod from Israel and Republic of Korea: Petitioner's Request for Alignment of the Countervailing Duty Investigations with the Concurrent Antidumping Duty Investigations,'' dated September 18, 2023.

those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Commerce calculated an individual estimated countervailable subsidy rate for Finkelstein Metals Ltd. (Finkelstein), the only individually examined exporter/producer in this investigation. Because the only individually calculated rate is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average rate calculated for Finkelstein is the rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Finkelstein Metals Ltd	5.26
All Others	5.26

Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the deadline for the last verification questionnaire response in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.[10] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of brass rod from Israel are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

[10] *See* 19 CFR 351.309; *see also* 19 CFR 35.303 (for general filing requirements).

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Dated: September 25, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are brass rod and bar (brass rod), which is defined as leaded, low-lead, and no-lead solid brass made from alloys such as, but not limited to the following alloys classified under the Unified Numbering System (UNS) as C27450, C27451, C27460, C34500, C35000, C35300, C35330, C36000, C36300, C37000, C37700, C48500, C67300, C67600, and C69300, and their international equivalents.

The brass rod subject to this investigation has an actual cross-section or outside diameter greater than 0.25 inches but less than or equal to 12 inches. Brass rod cross-sections may be round, hexagonal, square, or octagonal shapes as well as special profiles (*e.g.,* angles, shapes), including hollow profiles.

Standard leaded brass rod covered by the scope contains, by weight, 57.0–65.0 percent copper; 0.5–3.0 percent lead; no more than 1.3 percent iron; and at least 15 percent zinc. No-lead or low-lead brass rod covered by the scope contains by weight 59.0–76.0 percent copper; 0–1.5 percent lead; no more than 0.35 percent iron; and at least 15 percent zinc. Brass rod may also include other chemical elements (*e.g.,* nickel, phosphorous, silicon, tin, *etc.*).

Brass rod may be in straight lengths or coils. Brass rod covered by this investigation may be finished or unfinished, and may or may not be heated, extruded, pickled, or cold-drawn. Brass rod may be produced in accordance with ASTM B16, ASTM B124, ASTM B981, ASTM B371, ASTM B453, ASTM B21, ASTM B138, and ASTM B927, but such conformity to an ASTM standard is not required for the merchandise to be included within the scope.

Excluded from the scope of this investigation is brass ingot, which is a casting of unwrought metal unsuitable for conversion into brass rod without remelting, that contains, by weight, at least 57.0 percent copper and 15.0 percent zinc.

The merchandise covered by this investigation is currently classifiable under subheadings 7407.21.9000, 7407.21.7000, and 7407.21.1500 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheadings 7403.21.0000, 7407.21.3000, and 7407.21.5000. The HTSUS subheadings and UNS alloy designations are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Injury Test
VI. Subsidies Valuation

VII. Benchmarks and Discount Rates
VIII. Analysis of Programs
IX. Recommendation

[FR Doc. 2023–21546 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–863]

Forged Steel Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that sales of forged steel fittings from Taiwan were not sold in the United States at less than normal value (NV) during the period of review (POR), September 1, 2021, through August 31, 2022. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 29, 2023.

FOR FURTHER INFORMATION CONTACT: Dennis McClure, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5973.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2018, Commerce published the antidumping duty order on forged steel fittings from Taiwan.[1] On November 3, 2022, in accordance with 19 CFR 351.221(c)(1)(i), Commerce published the initiation of an administrative review of the *Order*.[2] This review covers one exporter of the subject merchandise, Both-Well Steel Fittings Co., Ltd (Bothwell). On April 11, 2023, Commerce extended the deadline for the preliminary results of this review to September 29, 2023, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).[3]

For a detailed description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4] A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The products covered by the scope of this *Order* are carbon and alloy forged steel fittings, whether unfinished (commonly known as blanks or rough forgings) or finished. Such fittings are made in a variety of shapes including, but not limited to, elbows, tees, crosses, laterals, couplings, reducers, caps, plugs, bushings, unions, and outlets. Forged steel fittings are covered regardless of end finish, whether threaded, socket-weld or other end connections. The subject merchandise is currently classifiable under subheadings 7307.99.1000, 7307.99.3000, 7307.99.5045, and 7307.99.5060 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists for Bothwell for the period September 1, 2021, through August 31, 2022:

Exporter or producer	Weighted-average dumping margin (percent)
Both-Well Steel Fittings Co., Ltd	0.00

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[5] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.[6] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[7] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions should be filed using ACCESS and must be served on interested parties.[8] An electronically filed document must be received successfully in its entirety by ACCESS by 5 p.m. eastern standard tme by the due date specified above.[9] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business

[1] *See Forged Steel Fittings from Taiwan: Antidumping Duty Order,* 83 FR 48280 (September 24, 2018) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 66275 (November 3, 2022).

[3] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated April 11, 2023.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Forged Steel Fittings from Taiwan; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See* 19 CFR 351.309(c)(1)(ii).

[6] *See* 19 CFR 351.309(d).

[7] *See* 19 CFR 351.310(d).

[8] *See* 19 CFR 351.303.

[9] *See* 19 CFR 351.310(c).

proprietary information, until further notice.[10]

Final Results of Review

Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, no later than 120 days after the date of publication of this notice, unless this deadline is otherwise extended.[11] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future cash deposits of estimated antidumping duties, where applicable.[12]

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this administrative review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

For an individually examined respondent whose weighted-average dumping margin is not zero or *de minimis* (*i.e.,* 0.50 percent), upon completion of the final results, Commerce will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate a per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total quantity of those sales.[13] To determine whether the duty assessment rate is *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate an estimated importer-specific *ad valorem* rate based on the estimated entered value. Where either a respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific *ad valorem* rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[14]

For entries of subject merchandise during the POR produced by an individually examined respondent for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Bothwell will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for an exporter not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in a review or the less-than-fair-value (LTFV) investigation but the producer is, then the cash deposit rate will be the rate established for the most recently-completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 116.17 percent, the all-others rate established in the LTFV investigation.[15]

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

These preliminary results are being issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: September 22, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2023–21376 Filed 9–28–23; 8:45 am]

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[10] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[11] *See* section 751(a)(3)(A) of the Act; and 19 CFR 351.213(h).

[12] *See* section 751(a)(2)(C) of the Act.

[13] *See* 19 CFR 351.212(b)(1).

[14] *See* 19 CFR 352.106(c)(2); *see also Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[15] *See Order,* 83 FR at 48281.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–833, A–301–803]

Citric Acid and Certain Citrate Salts From Thailand and Colombia: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of these expedited sunset reviews, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on citric acid and certain citrate salts (citric acid) from Thailand and Colombia would be likely to lead to continuation or recurrence of dumping at the level indicated in the ''Final Results of Sunset Reviews'' section of this notice.

DATES: Applicable September 29, 2023.

FOR FURTHER INFORMATION CONTACT: Deborah Cohen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4521.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2023, Commerce published the *Initiation Notice* of the sunset reviews of the AD orders on citric acid from Thailand and Colombia [1] in the **Federal Register** pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] In accordance with 19 CFR 351.218(d)(1)(i) and (ii), Commerce received notices of intent to participate in these sunset reviews from Archer Daniels Midland Company, Cargill, Incorporated, and Primary Products Ingredients Americas LLC (collectively, the domestic interested parties) within 15 days after the date of publication of the *Initiation Notice*.[3] The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as producers of a domestic like product in the United States.[4] Commerce timely-received an adequate substantive response to the *Initiation Notice* from the domestic interested parties within the 30-day period specified in 19 CFR 351.218(d)(3)(i).[5] We did not receive substantive responses from any other interested parties. On July 25, 2023, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from other interested parties.[6] As a result, in accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited, *i.e.,* 120-day sunset reviews of the *Orders.*

Scope of the Orders

The merchandise covered by the *Orders* includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. For a full description of the scope of the *Orders, see* the Issues and Decision Memorandum.[7]

Analysis of Comments Received

All issues raised in these sunset reviews are addressed in the Issues and Decision Memorandum, including the likelihood of continuation or recurrence of dumping and the magnitude of the margins of dumping likely to prevail if the *Orders* were revoked. A list of topics discussed in the Issues and Decision Memorandum is included as the 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 Service System (ACCESS). ACCESS is available to registered users at *https://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 Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping and that the magnitude of the margins of dumping likely to prevail would be at rates up to 28.48 percent for Colombia and 15.71 percent for Thailand.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). 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 sanction.

Notification to Interested Parties

Commerce is issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: September 22, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Orders*
IV. History of the *Orders*
V. Legal Framework
VI. Discussion of the Issues
1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of Margin of Dumping Likely to Prevail
VII. Final Results of Expedited Sunset Reviews
VIII. Recommendation

[FR Doc. 2023–21383 Filed 9–28–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–916]

Brass Rod From India: Preliminary Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of brass rod from India. The period of investigation is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 29, 2023.

FOR FURTHER INFORMATION CONTACT: Dusten Hom or Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5075 or (202) 482–1785, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). On May 24, 2023, Commerce published in the **Federal Register** the notice of initiation of this investigation.[1]

[1] *See Citric Acid and Certain Citrate Salts from Belgium, Colombia and Thailand: Antidumping Duty Orders,* 83 FR 35214 (July 25, 2018) (*Orders*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 88 FR 35832 (June 1, 2023) (*Initiation Notice*).

[3] *See* Domestic Interested Parties Letters, ''Five Year (''Sunset'') Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from Colombia—Domestic Industry's Notice of Intent to Participate,'' dated June 15, 2023; and ''Five Year (''Sunset'') Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from Thailand—Domestic Industry's Notice of Intent to Participate,'' dated June 15, 2023.

[4] *Id.*

[5] *See* Domestic Interested Party's Letters, ''Five Year (''Sunset'') Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from Colombia—Domestic Interested Party's Substantive Response,'' dated June 30, 2023; and ''Five Year (''Sunset'') Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from Thailand—Domestic Interested Party's Substantive Response,'' dated June 30, 2023.

[6] *See* Commerce's Letter, ''Sunset Reviews Initiated on June 1, 2023,'' dated July 25, 2023.

[7] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders on Citric Acid and Certain Citrate Salts from Thailand and Colombia,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[1] *See Brass Rod from India, Israel, and the Republic of Korea: Initiation of Countervailing Duty*

On June 30, 2023, Commerce postponed the preliminary determination of this investigation until September 25, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is brass rod from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] We received comments from several interested parties concerning the scope of the antidumping duty (AD) and countervailing duty (CVD) investigations as it appeared in the *Initiation Notice*.[6] For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[7] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice, see* Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[8]

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Commerce calculated an individual estimated countervailable subsidy rate for Rajhans Metals Pvt Ltd. (RMPL), the only individually examined exporter/producer in this investigation. Because the only individually calculated rate is not zero, *de minimis,* or based entirely under section 776 of the Act, the estimated weighted-average rate calculated for RMPL is the rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Rajhans Metals Private Limited (RMPL)[9]	3.03
All Others	3.03

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[10] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold a hearing at a time and date to be determined. Parties should

Investigations, 88 FR 33566 (May 24, 2023) (*Initiation Notice*).

[2] *See Brass Rod from India, Israel, and the Republic of Korea: Postponement of Preliminary Determinationss of Countervailing Duty Investigations,* 88 FR 42300 (June 30, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of Brass Rod from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 87 FR at 3971.

[6] *Id.*

[7] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[8] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[9] As discussed in the Preliminary Decision Memorandum, Commerce found the following company to be cross-owned with Rajhans Metals Private Limited (RMPL): Rajhans Alloys Private Limited (RAPL). However, effective March 11, 2016, RAPL was amalgamated with RMPL, and since then, ceased to be a separate entity.

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of brass rod from India are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: September 25, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are brass rod and bar (brass rod), which is defined as leaded, low-lead, and no-lead solid brass made from alloys such as, but not limited to the following alloys classified under the Unified Numbering System (UNS) as C27450, C27451, C27460, C34500, C35000, C35300, C35330, C36000, C36300, C37000, C37700, C48500, C67300, C67600, and C69300, and their international equivalents.

The brass rod subject to this investigation has an actual cross-section or outside diameter greater than 0.25 inches but less than or equal to 12 inches. Brass rod cross-sections may be round, hexagonal, square, or octagonal shapes as well as special profiles (*e.g.,* angles, shapes), including hollow profiles.

Standard leaded brass rod covered by the scope contains, by weight, 57.0–65.0 percent copper; 0.5–3.0 percent lead; no more than 1.3 percent iron; and at least 15 percent zinc. No-lead or low-lead brass rod covered by the scope contains by weight 59.0–76.0 percent copper; 0–1.5 percent lead; no more than 0.35 percent iron; and at least 15 percent zinc. Brass rod may also include other chemical elements (*e.g.,* nickel, phosphorous, silicon, tin, *etc.*).

Brass rod may be in straight lengths or coils. Brass rod covered by this investigation may be finished or unfinished, and may or may not be heated, extruded, pickled, or cold-drawn. Brass rod may be produced in accordance with ASTM B16, ASTM B124, ASTM B981, ASTM B371, ASTM B453, ASTM B21, ASTM B138, and ASTM B927, but such conformity to an ASTM standard is not required for the merchandise to be included within the scope.

Excluded from the scope of this investigation is brass ingot, which is a casting of unwrought metal unsuitable for conversion into brass rod without remelting, that contains, by weight, at least 57.0 percent copper and 15.0 percent zinc.

The merchandise covered by this investigation is currently classifiable under subheadings 7407.21.9000, 7407.21.7000, and 7407.21.1500 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheadings 7403.21.0000, 7407.21.3000, and 7407.21.5000. The HTSUS subheadings and UNS alloy designations are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Injury Test
VI. Subsidies Valuation Information
VII. Benchmarks and Discount Rates
VIII. Diversification of India's Economy
IX. Analysis of Programs
X. Recommendation

[FR Doc. 2023–21553 Filed 9–28–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–552–829]

Passenger Vehicle and Light Truck Tires From the Socialist Republic of Vietnam: Final Results of Countervailing Duty Administrative Review; 2020–2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that the company subject to this countervailing duty administrative review of passenger vehicle and light truck tires (PVLT tires) from the Socialist Republic of Vietnam (Vietnam) received countervailable subsidies during the period of review (POR), November 10, 2020, through December 31, 2021.

DATES: Applicable September 29, 2023.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0410.

SUPPLEMENTARY INFORMATION:

Background

On July 21, 2023, Commerce published the preliminary results of this administrative review in the **Federal Register**.[1] This review covers one respondent, Bridgestone Tire Manufacturing Vietnam, LLC (Bridgestone).

We invited interested parties to comment on the *Preliminary Results.*[2] On August 21, 2023, we received a timely case brief from the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (the petitioner).[3] No party submitted a rebuttal brief or requested a hearing. For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[4]

Scope of the Order [5]

The products covered by the *Order* are PVLT tires from Vietnam. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised by interested parties in briefs are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues addressed in the Issues and Decision Memorandum is provided in the 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 Service System (ACCESS). ACCESS is available to registered users at *https://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.*

[1] *See Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Preliminary Results of Countervailing Duty Administrative Review and Partial Rescission of Administrative Review; 2020–2021,* 88 FR 47107 (July 21, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Preliminary Results,* 88 FR at 41708.

[3] *See* Petitioner's Letter, ''Letter in Lieu of a Case Brief,'' dated August 21, 2023.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam; 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Countervailing Duty Order,* 86 FR 38013 (July 19, 2021) (*Order*).

Changes Since the Preliminary Results

In response to arguments from the petitioner, Commerce corrected an error with respect to the currency exchange program. As a result of this change, we updated the final rates for Bridgestone. These changes are explained in the Issues and Decision Memorandum.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each subsidy program found to be countervailable, Commerce finds that there is a subsidy, *i.e.,* a financial contribution from a government or public entity that gives rise to a benefit to the recipient, and that the subsidy is specific.[6] For a full description of the methodology underlying all of Commerce's conclusions, including any determination that relied upon the use of adverse facts available pursuant to section 776(a) and (b) of the Act, *see* the Issues and Decision Memorandum.

Final Results of Administrative Review

In accordance with 19 CFR 351.221(b)(5), Commerce calculated the following net countervailable subsidy rates for the period November 10, 2020, through December 31, 2021:

Company	Subsidy rate—2020 (percent *ad valorem*)	Subsidy rate—2021 (percent *ad valorem*)
Bridgestone Tire Manufacturing Vietnam, LLC	1.34	0.00

Disclosure

We intend to disclose the calculations performed in connection with the final results of review to parties in this proceeding within five days after public announcement of the final results or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Cash Deposit Instructions

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown for the company listed above for 2021 (*i.e.,* 0.00 percent) on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This cash deposit requirement, effective upon publication of the final results of this review, shall remain in effect until further notice.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise covered by this review. We intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results of review. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 sanctionable violation.

Notification to Interested Parties

Commerce is issuing and publishing the final results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: September 25, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Changes Since the *Preliminary Results*
V. Subsidies Valuation Information
VI. Interest Rates, Discount Rates, and Benchmarks
VII. Analysis of Programs
VIII. Discussion of the Issue
Comment: Whether Commerce Should Use a Different Denominator for the Currency Exchanges Program
IX. Recommendation

[FR Doc. 2023–21450 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–878]

Certain Corrosion-Resistant Steel Products From the Republic of Korea: Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request for a changed circumstances review (CCR), the U.S. Department of Commerce (Commerce) is initiating a CCR of the antidumping duty (AD) order on certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea). Additionally, Commerce preliminarily determines that Dongkuk Coated Metal Co., Ltd., following a corporate organizational change in June 2023 (hereinafter, Dongkuk CM), is the successor-in-interest to the pre-reorganization Dongkuk Steel Mill Co., Ltd. entity (hereinafter, Old Dongkuk Steel). As such, Dongkuk CM is entitled to Old Dongkuk Steel's AD cash deposit rates with respect to entries of subject merchandise in the above-referenced proceeding. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 29, 2023.

FOR FURTHER INFORMATION CONTACT: William Horn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4868.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 2023, Dongkuk CM notified Commerce of a corporate reorganization and requested that Commerce initiate a CCR under the relevant AD proceeding to determine that it is the successor-in-interest to Old Dongkuk Steel for purposes of determining AD cash deposits.[1] In this request, Dongkuk CM stated that, on May 12, 2023, the shareholders of Old Dongkuk Steel approved the December 9, 2022, proposal by the company's board of directors (BOD) to spin off its cold-rolled steel division, which produced CORE and non-subject merchandise, and its hot-rolled steel division, which produced only non-subject merchandise, as separate operating companies (*i.e.,* Dongkuk CM and New Dongkuk Steel, respectively) and position the newly-established operating companies under the holding company, Dongkuk Holdings Co., Ltd. (Dongkuk Holdings), effective as of June 1, 2023 (the Spin-Off and Reorganization).[2] Immediately following the BOD meeting on December 9, 2022, Old Dongkuk Steel notified the Korean Financial Services Commission (KFSC) and the Korean Financial Supervisory Service (KFSS) of the planned Spin-Off and Reorganization through a written notification that summarized the Spin-Off Plan (KFSS Notification). The KFSS Notification explained the plan to split the operations of Old Dongkuk Steel into Dongkuk CM, New Dongkuk, and Dongkuk Holdings.[3] Subsequently, the Extraordinary General Meeting of Shareholders was convened on May 12, 2023, which ''approved as presented'' the Spin-Off Plan to proceed on June 1, 2023, as had been proposed.[4]

Dongkuk CM states that there were no other changes because of the Spin-Off and Reorganization. The total capital of Old Dongkuk Steel was allocated among the three companies under the new structure; management of Old Dongkuk Steel was divided among the three companies; the production facilities of Old Dongkuk Steel, including the production facility for CORE (*i.e.,* the Busan Plant), were split by operating division (*i.e.,* Cold- Rolled Steel Division and Hot-Rolled Steel Division) between Dongkuk CM and New Dongkuk Steel; Dongkuk CM retained the suppliers of Old Dongkuk Steel's Cold-Rolled Steel Division for the materials used in the production of CORE; and Dongkuk CM retained the customer base of Old Dongkuk Steel's Cold-Rolled Steel Division for CORE.[5]

Scope of the Order [6]

The merchandise covered by the *Order* is certain corrosion-resistant steel products from Korea. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.[7]

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216, Commerce will conduct a CCR of an order upon receipt of information concerning, or a request from an interested party for a review of, an order which shows changed circumstances sufficient to warrant a review of the order. Commerce finds that the information submitted by Dongkuk CM demonstrates changed circumstances sufficient to warrant such a review. Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(d), Commerce is initiating a CCR based on the information contained in Dongkuk CM's request that Commerce determine that Dongkuk CM is the successor-in-interest to Old Dongkuk Steel for purposes of the *Order.*

Further, 19 CFR 351.221(c)(3)(ii) permits Commerce to combine the notice of initiation of a CCR and the notice of preliminary results of a CCR if Commerce concludes that expedited action is warranted. In this instance, because the record contains the information necessary to make a preliminary finding, we find that expedited action is warranted and have combined the notice of initiation and the notice of preliminary results.

Methodology

In determining whether one company is the successor to another, Commerce generally considers a company to be the successor-in-interest for AD cash deposit purposes if the operations of the successor are not materially dissimilar from those of its predecessor.[8] In making this determination, Commerce examines a number of factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) suppliers; and (4) customer base.[9] While no one or several of these factors will necessarily provide a dispositive indication of succession, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, Commerce will assign the new company the cash deposit rate of its predecessor.[10]

Commerce's analysis of the information submitted by Dongkuk CM is detailed in the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum is available at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Preliminary Results of the Changed Circumstances Reviews

In the Dongkuk CCR Request, Dongkuk CM provided evidence demonstrating that its operations are not materially dissimilar from those of Old Dongkuk Steel with respect to the subject merchandise. Specifically, Dongkuk CM is managed and operated by the same managers as Old Dongkuk Steel, either directly as board members or members of Dongkuk CM's management team, or indirectly as members of Dongkuk Holdings' management team. Further, Dongkuk CM has not added, or discontinued use

[1] *See* Dongkuk's Letter, ''Request for Changed Circumstances Review and Successor-in-Interest Determination'' (Dongkuk CCR Request), dated June 30, 2023.

[2] *Id.* at 2–3 and Attachment 1.

[3] *Id.* at 4 and Attachment 3.

[4] *Id.* at 4 and Attachments 2 and 4.

[5] *Id.* at 3–6 and Attachments 2–4.

[6] *See Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390 (July 25, 2016) (*Order*).

[7] *See* Memorandum, ''Decision Memorandum for the Initiation and Preliminary Results of the Changed Circumstances Review of the Antidumping Duty Order on Certain Corrosion-Resistant Steel Products from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice.

[8] *See Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring from the People's Republic of China,* 79 FR 48117 (August 15, 2014), unchanged in *Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Review,* 79 FR 58740 (September 30, 2014).

[9] *Id.*

[10] *See, e.g., Certain Preserved Mushrooms from India: Initiation and Preliminary Results of Changed-Circumstances Review,* 67 FR 78416 (December 24, 2002), unchanged in *Certain Preserved Mushrooms from India: Final Results of Changed-Circumstances Review,* 68 FR 6884 (February 11, 2003); and *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Administrative Review,* 64 FR 9979, 9980 (March 1, 1999).

of, steel production facilities as a result of the change in ownership and management structure. Finally, there have been no significant changes to the company's suppliers and customer base. Based on the foregoing, which is explained in greater detail in the Preliminary Decision Memorandum, we preliminarily determine that Dongkuk CM is the successor-in-interest to Old Dongkuk Steel and, as such, that Dongkuk CM is entitled to Old Dongkuk Steel's AD cash deposit rate with respect to entries of subject merchandise.

Public Comment

In accordance with 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 14 days after the date of publication of this notice.[11] Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than seven days after the due date for case briefs, in accordance with 19 CFR 351.309(d).[12] Parties who submit case briefs or rebuttal briefs in this CCR are requested to submit with each argument: (1) a statement of the issues; (2) a brief summary of the arguments; and (3) a table of authorities.[13]

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 14 days of publication of this notice.[14] Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and the time of the hearing two days before the scheduled date.

All submissions must be filed electronically using ACCESS and must also be served on interested parties. An electronically-filed document must be received successfully in its entirely by ACCESS by 5:00 p.m. Eastern Time (ET) on the due date.[15] Note that Commerce has temporarily modified certain requirements for serving documents containing business proprietary information, until further notice.[16]

Final Results

Consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days of publication of these preliminary results, if all parties agree to the preliminary findings.

Notification to Interested Parties

We are issuing and publishing this initiation and preliminary results notice in accordance with section 751(b)(1) and 777(i)(1) of the Act, and 19 CFR 351.216(b) and 351.221(c)(3).

Dated: September 22, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Current Cash Deposit Rates
V. Initiation and Preliminary Results of the Changed Circumstances Review
VI. Successor-in-Interest Determination
VII. Recommendation

[FR Doc. 2023–21379 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–DS–P

[11] Commerce is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for the filing of case briefs.

[12] *See Temporary Rule Modifying AD/CVD Service Requirements Due to Covid–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[13] *See* 19 CFR 351.309(c)(2).

[14] Commerce is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.

[15] *See* 19 CFR 351.303(b).

[16] *See Temporary Rule.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD426]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) and its advisory bodies will meet November 1–8, 2023 in Garden Grove, California and via webinar. The Council meeting will be live streamed with the opportunity to provide public comment remotely.

DATES: The Pacific Council meeting will begin on Friday, November 3, 2023, at 9 a.m. Pacific Daylight Time (PDT), reconvening at 8 a.m. on Saturday, November 4 through Wednesday, November 8, 2023. All meetings are open to the public, except for a Closed Session held from 8 a.m. to 9 a.m., Friday, November 3, to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES:

Meeting address: Meetings of the Pacific Council and its advisory entities will be held at the Hyatt Regency Orange County, 11999 Harbor Blvd., Garden Grove, CA; telephone: (714) 750–1234. Specific meeting information, including directions on joining the meeting, connecting to the live stream broadcast, and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Merrick Burden, Executive Director, Pacific Council; telephone: (503) 820–2418 or (866) 806–7204 toll-free, or access the Pacific Council website, *www.pcouncil.org,* for the proposed agenda and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The November 3–8, 2023 meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 9 a.m. PDT Friday, November 3, 2023, and 8 a.m. PDT Saturday, November 4 through Wednesday, November 8, 2023. Broadcasts end when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion for the public is listen-only except that an opportunity for oral public comment will be provided prior to Council Action on each agenda item. Additional information and instructions on joining or listening to the meeting can be found on the Pacific Council's website (see *www.pcouncil.org*).

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''Final Action'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, and advisory entity meeting times, are

described in Agenda Item A.3, Proposed Council Meeting Agenda, and will be in the advance November 2023 briefing materials and posted on the Pacific Council website at *www.pcouncil.org* no later than Friday, October 13, 2023.

A. Call to Order

1. Opening Remarks
2. Roll Call
3. Agenda
4. Executive Director's Report

B. Open Comment Period

1. Comments on Non-Agenda Items

C. Administrative Matters

1. Council Coordination Committee Report
2. National Marine Fisheries Service 2023 Accomplishments and 2024 Priorities
3. Marine Planning
4. Fiscal Matters
5. Legislative Matters
6. Approval of Council Meeting Record
7. Membership Appointments and Council Operating Procedures
8. Future Council Meeting Agenda and Workload Planning

D. Salmon Management

1. National Marine Fisheries Service Report Including Stock Status Determinations
2. Fishery Management Plan (FMP) Amendment 24: Southern Resident Killer Whale Threshold Clarifications—Final
3. Final Methodology Review
4. Final 2024 Preseason Management Schedule and 2024 Management Framework for California Chinook Fisheries
5. Klamath River Fall Chinook Workgroup Progress Report

E. Groundfish Management

1. National Marine Fisheries Service Report
2. Adopt Quillback Rebuilding Analyses, Catch-Only Projections, and Revised Projections
3. Final Inseason Adjustments for 2023 and 2024, Including 2024 Whiting Set-Asides—Part I
4. Sablefish Gear Switching—Preliminary Preferred Alternative
5. Harvest Specifications and Management Measures for 2025–2026—Part I
6. Preliminary Exempted Fishing Permits for 2025–2026
7. Harvest Specifications and Management Measures for 2025–2026—Part II
8. Phase 2 Stock Definitions—Planning
9. Final Inseason Adjustments for 2023–2024—Part II, if Necessary

F. Highly Migratory Species Management

1. National Marine Fisheries Service Report
2. Highly Migratory Species Essential Fish Habitat Amendment—Final
3. Highly Migratory Species Roadmap Workshop

G. Pacific Halibut Management

1. 2024 Catch Sharing Plan and Regulations—Final

Advisory Body Agendas

Advisory body agendas will include discussions of relevant issues that are on the Pacific Council agenda for this meeting and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Pacific Council website, *www.pcouncil.org,* no later than Friday, October 13, 2023 by the end of the business day.

SCHEDULE OF ANCILLARY MEETINGS

Day 1—Wednesday, November 1, 2023:	
Marine Planning Committee	8 a.m.
Groundfish Subcommittee Scientific and Statistical Committee	3 p.m.
Day 2—Thursday, November 2, 2023:	
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Scientific and Statistical Committee	8 a.m.
Legislative Committee	10 a.m.
Budget Committee	1 p.m.
Enforcement Consultants	2 p.m.
Day 3—Friday, November 3, 2023:	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Highly Migratory Species Advisory Subpanel	1 p.m.
Highly Migratory Species Management Team	1 p.m.
Scientific and Statistical Committee	8 a.m.
Enforcement Consultants	As Necessary.
Day 4—Saturday, November 4, 2023:	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Highly Migratory Species Advisory Subpanel	8 a.m.
Highly Migratory Species Management Team	8 a.m.
Enforcement Consultants	As Necessary.
Day 5—Sunday, November 5, 2023:	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Highly Migratory Species Management Team	8 a.m.
Enforcement Consultants	As Necessary.
Day 6—Monday, November 6, 2023:	

SCHEDULE OF ANCILLARY MEETINGS—Continued

California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Enforcement Consultants	As Necessary.
Day 7—Tuesday, November 7, 2023	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.
Enforcement Consultants	As Necessary.
Day 8—Wednesday, November 8, 2023	
California State Delegation	7 a.m.
Oregon State Delegation	7 a.m.
Washington State Delegation	7 a.m.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 business days prior to the meeting date.

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

Dated: September 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–21470 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD413]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid meeting open to the public offering both in-person and virtual options for participation.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a four-day hybrid meeting to consider actions affecting the Gulf of Mexico fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will convene Monday, October 23 through Thursday, October 26, 2023. Schedule as follows: Monday, Tuesday and Wednesday at 8 a.m.–5 p.m. and Thursday at 8 a.m.–4:15 p.m., CDT.

ADDRESSES: The meeting will take place at Embassy Suites by Hilton, located at 16006 Front Beach Road, Panama City Beach, FL 32413.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Carrie Simmons, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Monday, October 23, 2023; 8 a.m.–5 p.m., CDT

The meeting will begin in Full Council with review and adoption of Proposed Council Committee Assignments for October 2023 through August 2024 and current Council Committee Assignments.

Committee Sessions will follow beginning with the Data Collection Committee reviewing Final Action item: Comprehensive Amendment Addressing Electronic Reporting for Commercial Vessels, Development of Gulf For-Hire Data Collection Program, Scientific and Statistical Committee (SSC) Discussions on Recreational Marine Recreational Information Program-Fishing Effort Survey (MRIP–FES) Pilot Study and Next Steps and on MRIP–FES Inventory for the Gulf of Mexico. The Committee will review the summary report from the Technical Coordinating Committee Deliberations at the Gulf States Marie Fisheries Commission (GSMFC) meeting.

There will be an Individual Fishing Quota (IFQ) Information Presentation from NOAA during lunch.

Following lunch, the *Shrimp* Committee will convene and review the Results of Side-by-Side Testing of Cellular Vessel Monitoring Systems (cVMS) and Cellular Electronic Logbooks (cELBs) on Gulf *Shrimp* Vessels and any remaining items from the meeting summary for the October 2023 *Shrimp* Advisory Panel meeting.

The *Reef Fish* Committee will convene and discuss the SSC Reviews for 2023 Gulf *Vermilion Snapper* Interim Analysis and Gulf *Lane Snapper* Catch Analysis.

The Full Council will reconvene in a CLOSED SESSION for selection of Ad Hoc Charter For-hire Data Collection Advisory Panel Members.

Tuesday, October 24, 2023; 8 a.m.–5 p.m., CDT

The *Reef Fish* Committee will reconvene to review IFQ Program Goals and Objectives, Final Action item: Modifications to Recreational and Commercial Greater Amberjack Management Measures, Draft: *Snapper Grouper* Amendment 44/Reef Fish Amendment 55: Catch Level Adjustments and Allocations for Southeastern U.S. *Yellowtail Snapper.* The Committee will review SSC Discussions on Recent *Gag Grouper* Research and Implications for Management, 2023 Gulf Gag Grouper Health Check Status, Draft Options: Gag and Black Grouper Management Measures and *Reef Fish* and IFQ Program Landings, and State Program Landings for *Red Snapper*.

Wednesday, October 25, 2023; 8 a.m.–5 p.m., CDT

The Ecosystem Committee will review and discuss the Summary Report from the September 2023 Ecosystem Technical Committee meeting.

The Administrative/Budget Committee will discuss Draft Activities for Proposed Use of Administrative Award Carryover Funds and Information on Inflation Reduction Act Funding for the Regional Management Councils and Proposed Activities.

The *Mackerel* Committee will review the Coastal migratory Pelagics Landings and Draft Framework Amendment 14: Modifications to Gulf *Spanish Mackerel* Catch Limits.

At approximately 11:15 a.m., CDT, the Council will reconvene with a Call to Order, Announcements and Introductions, Adoption of Agenda and Approval of Minutes. The Council will receive a presentation Update on the Bureau of Ocean Energy Management (BOEM) on Wind Energy Development in the Gulf of Mexico and an update on NOAA Fisheries Efforts to Incorporate Feedback from Underserved Communities and other Stakeholders into a Southeast Equity and Environmental Justice Implementation Plan.

The Council will hold public comment testimony from 2 p.m. to 5 p.m., CDT for Final Action Items: Comprehensive Amendment Addressing Electronic Reporting for Commercial Vessels and Modifications to Recreational and Commercial Greater Amberjack Management Measures; including, open testimony on other fishery issues or concerns. Public comment may begin earlier than 2 p.m. CDT but will not conclude before that time. Persons wishing to give public testimony in-person must register at the registration kiosk in the meeting room. Persons wishing to give public testimony virtually must sign up via the link on the Council website. Registration for virtual testimony is open at the start of the meeting, Monday, October 23rd at 8 a.m., CDT and closes one hour before public testimony begins on Wednesday, October 25th at 1 p.m. CDT. Public testimony may end before the published agenda time if all registered in-person and virtual participants have completed their testimony.

Thursday, October 26, 2023; 8 a.m.–4:15 p.m., CDT

The Council will receive Committee reports from Data Collection, *Shrimp, Closed Session, Reef Fish, Ecosystem,* Administrative/Budget, and *Mackerel* Management Committees. The Council will receive updates from the following supporting agencies: Florida Law Enforcement Efforts; South Atlantic Fishery Management Council; NOAA Office of Law Enforcement (OLE); Gulf States Marine Fisheries Commission; U.S. Coast Guard; U.S. Fish and Wildlife Service; and Department of State.

The Council will discuss any Other Business items.

—Meeting Adjourns

The meeting will be a hybrid meeting; both in-person and virtual participation available. You may register for the webinar to listen-in only by visiting *www.gulfcouncil.org* and click on the Council meeting on the calendar. *https://attendee.gotowebinar.com/register/3383291116212545537.*

The timing and order in which agenda items are addressed may change as required to effectively address the issue, and the latest version along with other meeting materials will be posted on the website as they become available.

Although other non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid or accommodations should be directed to Kathy Pereira, (813) 348–1630, at least 15 days prior to the meeting date.

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

Dated: September 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–21456 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD412]

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

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council will hold a public webinar to collect input on NOAA Fisheries' Draft Climate Governance Policy.

DATES: The meeting will be held on Monday, October 16, 2023, from 2 p.m. until 4 p.m., EDT. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted prior to the meeting at *www.mafmc.org.*

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

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

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council (Council) will host a webinar to collect public input on NOAA Fisheries' Draft Climate Governance Policy. Comments provided during the webinar will be compiled for submission to NOAA Fisheries. Instructions for submitting written comments are available at: *https://www.mafmc.org/actions/nmfs-climate-governance-policy.*

In May 2023, NOAA Fisheries released a draft procedural directive titled ''Guidance on Council Authority for Preparing Fishery Management Plans for Stocks that May Extend across the Geographic Areas of more than one Council, pursuant to MSA § 304(f)'' (also referred to as the ''Climate Governance Policy''). Under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), each of the eight regional fishery management councils has responsibility for fisheries within specified geographic areas and is required to prepare and submit fishery management plans (FMPs) for fisheries that ''require conservation and management.'' In situations where a fishery extends beyond the geographic area of any one Council, section 304(f) of the MSA authorizes the Secretary of Commerce to either designate a single Council to prepare an FMP or require two or more Councils to prepare an FMP jointly. The draft policy is intended to provide guidance on when and how the Secretary will review and assign management authority over existing (and potentially new) fisheries found across more than one Council jurisdiction. NOAA Fisheries has stated that additional guidance is needed to

address governance issues associated with climate-related shifts in stock distributions.

Given the Mid-Atlantic Council's shared regional boundaries with two other East coast Councils, as well as the number of Mid-Atlantic stocks that extend beyond the Council region boundaries, this policy has the potential to directly impact a number of Mid-Atlantic Council fishery management plans. The purpose of this webinar is to inform Mid-Atlantic Council stakeholders on the development of this draft policy, and to ensure that Council stakeholders have the opportunity to provide feedback to NOAA Fisheries on this issue.

Additional information, background documents, and instructions for providing written comments will be posted to the Council's website at: *https://www.mafmc.org/actions/nmfs-climate-governance-policy.*

Special Accommodations

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

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

Dated: September 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–21455 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD417]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a hybrid meeting of its Scallop Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, November 1, 2023, at 9 a.m.

ADDRESSES:

Meeting address: This meeting will be held at the Fairfield Inn/Waypoint Event Center, 185 MacArthur Drive, New Bedford, MA 02740, Phone (774) 634–2000.

Webinar URL information: *https://attendee.gotowebinar.com/register/6354731240783343452*.

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

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Ph.D., Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel will review Framework Adjustment (FW) 38: Receive an update and provide input on a range of potential access area and DAS allocations for the 2024 and 2025 fishing years. Council staff will update the group on any modifications the Council may make to the scope of this action at the September Council meeting. FW 38 will set specifications including ABC/ACLs, days-at-sea, access area allocations, total allowable landings for the Northern Gulf of Maine (NGOM) management area, targets for General Category incidental catch, General Category access area trips, and set-asides for the observer and research programs for fishing year 2024 and default specifications for fishing year 2025. They also plan to discuss the Northern Edge Framework: Receive an update on progress and review the timeline for this action. They will also develop recommendations for possible 2024 scallop work priorities. Other business will be discussed, if necessary.

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

Special Accommodations

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

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

Dated: September 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–21463 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD383]

Endangered Species; File No. 27686

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

ACTION: Notice; receipt of application and conservation plan for renewal of an incidental take permit.

SUMMARY: Notice is hereby given that the Hudson River Sloop Clearwater, Incorporated (hereinafter 'Clearwater') has applied in due form to renew a permit pursuant to the Endangered Species Act of 1973, as amended (ESA). The renewal permit application is for the incidental take of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) and shortnose sturgeon (*A. brevirostrum*) associated with the otherwise lawful environmental education program conducted on the Hudson River, New York. The education program uses small otter trawls and beach seines to collect fish and invertebrate specimens that are held onboard the vessels for educational purposes. The duration of the proposed permit is 10 years. NMFS is providing this notice in order to allow other agencies and the public an opportunity to review and comment on the application materials. All comments received will become part of the public record and will be available for review.

DATES: Written comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before October 30, 2023.

ADDRESSES: The application is available for download and review at *https://www.fisheries.noaa.gov/national/endangered-species-conservation/incidental-take-permits* and at *https://www.regulations.gov.* The application is also available upon request (see **FOR FURTHER INFORMATION CONTACT**).

You may submit comments on this document, identified by NOAA–NMFS–

2023–0111 by any of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and NOAA–NMFS–2023–0111 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All Personal Identifying Information (*e.g.,* name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. We will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Steven Hughes, (301) 427–8576, *steven.hughes@noaa.gov;* Celeste Stout, (301) 427- 9436, *Celeste.Stout@noaa.gov.*

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the 'taking' of a species listed as endangered or threatened. The ESA defines ''take'' to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. NMFS governing regulations for permits for incidental taking of threatened and endangered species are promulgated at 50 CFR 222.307.

Background

On July 10, 2023, Clearwater Inc. sent a permit renewal request before permit number 18600 expires December 31, 2023. On August 28, 2023, NMFS met with Clearwater Inc. to discuss reducing the number of requested takes for the permit from 20 to 10 sturgeon over the course of the 10-year project.

Over the course of the 10-year project two sturgeons were captured during the proposed action. The species affected were two Atlantic sturgeon. The two sturgeon were released back into the Hudson River immediately after they were brought up to the boat. The Clearwater applicant has submitted end of year reports every year. There were no compliance issues throughout the permit that would prevent the application from being renewed for another 10 years.

Conservation Plan

Clearwater's conservation plan describes measures to minimize, monitor, and mitigate the incidental take of ESA-listed Atlantic and shortnose sturgeon. Clearwater will regularly communicate with New York State Department of Environmental Conservation to avoid known sturgeon habitat and spawning grounds. Clearwater will use small otter trawls (95.52 by 45.72 centimeter doors and weigh less than 0.45 kilograms) and short tow times (= < 5 minutes). Beach seines, which allow for targeted catch, will be used where practicable (*e.g.,* away from urban areas and where tides allow). If Clearwater incidentally captures a sturgeon in its sets, it will follow protocols for safe handling and immediately release any sturgeon caught. Clearwater will maintain a detailed log of all gear sets and will submit to NMFS incident and annual reports of incidental capture, if any, of listed sturgeon.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by 40 CFR parts 1500–1508 and NOAA Administrative Order 216–6, Environmental Review Procedures for Implementing the National Policy Act (1999), 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.

Next Steps

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments received during the comment period to determine whether the application meets the requirements of section 10(a) of the ESA. If NMFS determines that the requirements are met, a permit will be issued for incidental takes of ESA-listed sturgeon. The final NEPA and permit determinations will not be made until after the end of the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: September 26, 2023.

Catherine G. Marzin,

Deputy Director, Office of Protected Resources.

[FR Doc. 2023–21446 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD415]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Dolphin Wahoo Advisory Panel on November 6–7, 2023, and a meeting of the Mackerel Cobia Advisory Panel on November 7–8, 2023.

DATES: The Dolphin Wahoo Advisory Panel meeting will be held November 6, 2023, from 1 p.m. until 5 p.m., EDT and November 7, 2023, from 9 a.m. until 12 p.m. The Mackerel Cobia Advisory Panel meeting will be held November 7, 2023, from 1:30 p.m. until 5 p.m., EDT and November 8, 2023, from 9 a.m. to 5 p.m.

ADDRESSES:

Meeting address: The meetings will be held at the Town and County Inn, 2008 Savannah Highway, Charleston, SC 29407.

The meeting will also be available via webinar. Registration is required. Webinar registration, an online public comment form, and briefing book materials will be available two weeks prior to the meeting at: *https://safmc.net/advisory-panel-meetings/.*

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Christina Wiegand, Fishery Social Scientists, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *christina.wiegand@safmc.net.*

SUPPLEMENTARY INFORMATION:

Dolphin Wahoo Advisory Panel (AP) Meeting

The Dolphin Wahoo AP will develop and update a fishery performance report for wahoo, receive a presentation from the National Marine Fisheries Service

Southeast Fisheries Science Center on a Dolphin Management Strategy Evaluation (MSE) under development and will be asked to provide feedback on climate-related and other aspects of the MSE. The Dolphin Wahoo AP will also receive updates on recent Council actions including Dolphin Wahoo Regulatory Amendment 3 (addressing minimum size limits and recreational retention limits for dolphin), the Council's Citizen Science Program, and the ''What It Means to Me'' outreach initiative. The AP will provide input on other topics as needed.

Mackerel Cobia AP

The Mackerel Cobia AP will discuss Framework Amendment 13 to the Fishery Management Plan for Coastal Migratory Pelagics Resources in the Gulf of Mexico and Atlantic Region, which would update catch levels for Atlantic migratory group Spanish mackerel based on the most recent stock assessment (SEDAR 78) and Scientific and Statistical Committee recommendations. The Mackerel Cobia AP will also provide input on Mackerel Port Meetings, mackerel tournament landings, and complete a fishery performance report for Atlantic migratory group king mackerel. The Mackerel Cobia AP will receive updates on the Council's Citizen Science program, the 'What It Means to Me'' outreach initiative, and offshore wind activities. The AP will provide input on other topics as needed.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aid should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–21458 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD423]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a joint meeting of the South Atlantic Fishery Management Council's Citizen Science Operations Committee and Citizen Science Projects Advisory Committee via webinar.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a joint meeting of its Citizen Science Operations Committee and Citizen Science Projects Advisory Committee via webinar October 27, 2023.

DATES: The Citizen Science Operations Committee and Citizen Science Projects Advisory Committee joint meeting will be held via webinar on Friday, Oct 27, 2023, from 9 a.m. until 12 p.m.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Additional information, including a webinar registration link and meeting materials will be available from the Council's website at: *https://safmc.net/events/oct-2023-citizen-science-operations-projects-advisory-committee-meeting/* two weeks prior to the meeting. There will be an opportunity for public comment at the beginning of the meeting.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, Citizen Science Program Manager, SAFMC; phone: (843) 302–8439 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Citizen Science Operations Committee serves as advisors to the Council's Citizen Science Program. Committee members include representatives from the Council's Citizen Science Advisory Panel Pool, NOAA Fisheries Southeast Regional Office, NOAA Fisheries Southeast Fisheries Science Center, and the Council's Science and Statistical Committee. Their responsibilities include developing programmatic recommendations, reviewing policies, providing program direction/multi-partner support, identifying citizen science research needs, and providing general advice. Projects Advisory Committee members include representatives from the Council's fishery Advisory Panels (AP), Habitat & Ecosystem AP, and Outreach & Communication AP. Their responsibilities include identifying citizen science research and data needs across all the Council's fishery management plans; assisting with development of volunteer engagement strategies for recruiting, training, retaining, and communicating with volunteers; and serving as outreach ambassadors for the Program.

Agenda items include: reviewing and recommending updates to the Council's citizen science research priorities; a Citizen Science Program and Project update; discussion of Committee membership; and other business.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–21465 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD422]

Endangered Species; File No. 23096

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

ACTION: Notice; receipt of application for a permit modification.

SUMMARY: Notice is hereby given that the University of Georgia, Warnell School of Forestry and Natural Resources, 180 E Green Street, Athens, GA 30602 (Responsible Party: Dale Greene, Ph.D.) has requested a modification to scientific research Permit No. 23096.

DATES: Written comments must be received on or before October 30, 2023.

ADDRESSES: The modification request 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. 23096 Mod 6 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. 23096 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: Malcolm Mohead or Erin Markin, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 23096, issued on January 31, 2020 (85 FR 7978, February 12, 2020), is requested under the authority of the Endangered Species Act of 1973, as amended (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).

Permit No. 23096 authorizes the permit holder to: quantify population dynamics and seasonal habitat of Atlantic and shortnose sturgeon in Georgia and Florida river systems and estuaries [*i.e.,* Savannah GA), Altamaha (GA), Ogeechee (GA), Satilla (GA), St. Marys (GA, FL), Nassau (FL) and St. Johns River systems (FL)]. Researchers may capture (by gillnet or trammel net), tag (passive integrated transponder, internal acoustic, and dart), anesthetize, genetic fin clip, fin ray clip, measure, weigh, photograph/video, blood sample, and laparoscopically biopsy gonads of juvenile, sub-adult, and adult Atlantic and shortnose sturgeon. Early life stages of each species may be lethally sampled to document occurrence of spawning in systems. Up to two sturgeon of each species may unintentionally die annually in each river system during sampling activities, excluding the Satilla, St Marys, and St. Johns Rivers. The permit holder now requests: (1) increasing the numbers of Atlantic and shortnose sturgeon internally tagged with acoustic transmitters. In the Ogeechee River the numbers of adult/subadult Atlantic and shortnose sturgeon internally tagged would increase from 10 to 20 and 5 to 20, respectively. In the Altamaha River the numbers of adult/subadult Atlantic and shortnose sturgeon internally tagged would increase from 15 to 25 and 10 to 30, respectively. (2) adding apical scute sampling to the same adult/sub-adult and juvenile Atlantic and shortnose sturgeon taken in each river system to compare ageing results from fin rays sampling. Micronutrient analysis of the scute sample would also be conducted to compare trace historic movement patterns of species captured in each river system annually; and (3) adding epidermal mucus sampling to the same adult/subadult and juvenile Atlantic and shortnose sturgeon taken in each river system annually to address new objectives to differentiate between sturgeon species and sex using metabolomic analysis. The permit expires January 31, 2030.

Dated: September 25, 2023.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–21501 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD418]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a hybrid meeting of its Scallop Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, November 2, 2023, at 9 a.m.

ADDRESSES: This meeting will be held at the Fairfield Inn/Waypoint Event Center, 185 MacArthur Drive, New Bedford, MA 02740, Phone (774) 634–2000.

Webinar registration URL information: https://attendee.gotowebinar.com/register/3147868139421210204.

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

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Ph.D., Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will review Framework Adjustment (FW) 38: Receive an update and provide input on a range of potential access area and DAS allocations for the 2024 and 2025 fishing years. Council staff will update the group on any modifications the Council may make to the scope of this action at the September Council meeting. FW 38 will set specifications including ABC/ACLs, days-at-sea, access area allocations, total allowable landings for the Northern Gulf of Maine (NGOM) management area, targets for General Category incidental catch, General Category access area trips, and set-asides for the observer and research programs for fishing year 2024 and default specifications for fishing year 2025. They also plan to discuss the Northern Edge Framework: Receive an update on progress and review the timeline for this action. They will also develop recommendations for possible 2024 scallop work priorities. Other business will be discussed, if necessary.

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

Special Accommodations

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

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

Dated: September 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–21464 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB844]

Pacific Island Fisheries; Experimental Fishing Permit

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

ACTION: Notice; amendment of permit.

SUMMARY: NMFS issued an amended experimental fishing permit (EFP) to the Hawaii Longline Association (HLA) on September 20, 2023 to evaluate the risk of seabird interactions in the Hawaii shallow-set longline fishery when setting fishing gear 1 hour before and 1 hour after local sunset and using tori lines instead of required blue-dyed bait and strategic offal discharge as seabird mitigation measures. The intent of the EFP is to conduct a preliminary evaluation of potential alternative effective methods of discouraging seabird interactions while providing operational flexibility during setting in the shallow-set longline fishery. The amendment will extend the expiration date to August 24, 2024 and modify the list of vessels authorized under the EFP. All other terms and conditions of the EFP are unchanged. The amended EFP invalidates and replaces the EFP issued by NMFS to HLA on January 24, 2023.

DATES: The EFP is authorized from March 24, 2022, through August 24, 2024.

ADDRESSES: Copies of the EFP, HLA's application, and supporting documents are available at *https://www.regulations.gov/docket/NOAA-NMFS-2021-0128.*

FOR FURTHER INFORMATION CONTACT: Heather Nelson, Sustainable Fisheries, NMFS Pacific Islands Regional Office, tel (808) 725–5179.

SUPPLEMENTARY INFORMATION: NMFS is issuing an amended EFP to the HLA under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP), and regulations at 50 CFR 665.17. Under the EFP, HLA will conduct a pilot test of tori lines (bird scaring streamers) as replacement seabird mitigation measures to discourage seabird interactions during setting in the Hawaii shallow-set longline fishery. The purpose of the experiment is to test new ways to mitigate seabird interactions that also increase operational flexibility during setting. HLA will use no more than one vessel at any given time to test tori lines as an alternate seabird mitigation measure to currently required blue-dyed bait, strategic offal discharge, and night setting measures (50 CFR 665.815(a)(2) & (4)).

On March 18, 2022, under the authority of the Magnuson-Stevens Act, the FEP, and regulations at 50 CFR 665.17, NMFS issued an EFP to the HLA to evaluate the risk of seabird interactions in the Hawaii shallow-set longline fishery when setting fishing gear one hour before and one hour after local sunset and using tori lines instead of required blue-dyed bait and strategic offal discharge as seabird mitigation measures. The EFP was authorized from March 24, 2022, through September 24, 2023. On January 24, 2023, NMFS issued an amended EFP which authorized the participation of a new vessel, the F/V *Vui Vui II* under the EFP and approved the tori line design submitted to NMFS by HLA. All other terms and conditions of the EFP remained the same. This EFP invalidated and replaced the EFP issued by NMFS to HLA on March 24, 2022.

In a letter to NMFS dated June 13, 2023 HLA notified NMFS that no fishing effort occurred under the EFP due to unforeseen circumstances, including a delay in obtaining electronic monitoring equipment and crew shortages, and that none of the authorized vessels will participate in the trial. HLA requested a permit modification to authorize the participation of the F/V's *Queen Diamond* (Official No. 964927), *Queen Diamond II* (Official No. 949947), *Lady Luck* (Official No. 905580), and *Lucky Lady* (Official No. 616365) in place of the authorized vessels, and to extend the expiration date of the EFP through August 2024.

The requested vessels are of the same type, with a similar length and weight as the previously authorized vessels. No experimental fishing has occurred under the current permit, and the proposed extension is an extension of time to conduct the experimental fishing contemplated by the 2022 permit, rather than an extension that would allow for more effort than what was originally considered (80 fishing sets).

The project is limited in scale (only 4 vessels, setting a combined total of 80 sets with no more than 1 vessel operating at any given time), proposes a minor change in fishing operations that does not have the potential to change the overall effects of the fishery, and will be effective for no longer than 11 months. All other regulatory requirements would remain in effect for participating vessels, including seabird mitigation requirements at 50 CFR 665.815(a)(2) for strategic offal discharge during hauling, and 50 CFR 665.815(b) for short-tailed albatross handling techniques.

In addition, gear configurations and operations under the EFP would be compliant with international seabird mitigation requirements under the Western and Central Pacific Fisheries Commission and the Inter-American Tropical Tuna Commission. More information about the EFP may be found in the December 15, 2021 notice, and in HLA's EFP application (see **ADDRESSES**).

The amended EFP is effective through August 24, 2024, unless revoked, suspended, or modified earlier.

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

Dated: September 25, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–21329 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD414]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public online meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) ad-hoc Klamath River Fall Chinook Workgroup (Workgroup) will hold two online meetings.

DATES: The online meetings will be held Thursday, October 26, 2023, from 9 a.m. until 3 p.m., Pacific Daylight Time, or until business for the day concludes. The second meeting will be held Monday, November 20, 2023, from 9 a.m. until 3 p.m., Pacific Standard Time, or until for the day business concludes.

ADDRESSES: These meetings will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will

be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2280, extension 412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Robin Ehlke, Staff Officer, Pacific Council; telephone: (503) 820–2410.

SUPPLEMENTARY INFORMATION: The Workgroup will elect a chair and vice chair and conduct other logistical business. The Workgroup will also review and finalize the draft terms of reference as needed, identify, and assign tasks and a general schedule to provide technical data and analysis to the Pacific Council. Data collection, analysis, and discussion may also occur.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: September 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–21457 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD424]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of web conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Social Science Planning Team (SSPT) will meet October 18, 2023.

DATES: The meeting will be held on Wednesday, October 18, 2023, from 2 p.m. to 4 p.m., Alaska Time.

ADDRESSES: The meeting will be a web conference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/3010.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Suite 400, Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Sarah Marrinan, Council staff; phone: (907) 271–2809; email: *sarah.marrinan@noaa.gov.* For technical support, please contact our admin Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Wednesday, October 18, 2023

The SSPT agenda will meet to elect a chair or co-chairs, discuss the upcoming research priority process and the requested SSPT engagement, and other business. The agenda is subject to change, and the latest version will be posted *https://meetings.npfmc.org/Meeting/Details/3010* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone, or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/3010.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/3010.*

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

Dated: September 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–21469 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD281]

Scoping for a Marine Mammal Take Reduction Team to Address Incidental Mortality and Serious Injury of Humpback Whale Stocks in the Pacific

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

ACTION: Notice of scoping for a Marine Mammal Take Reduction Team; request for comment.

SUMMARY: NMFS is establishing a Take Reduction Team (TRT or Team) to address the incidental mortality and serious injury (M/SI) of humpback whales that would, at a minimum, consider Federal sablefish pot fishery interactions with the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whales, and may also be expanded to consider other fisheries in the Pacific Ocean. The TRT will develop a Take Reduction Plan (TRP or Plan) as required under the Marine Mammal Protection Act (MMPA). NMFS requests public comments on information relevant to establishing the TRT as well as interest from stakeholders who wish to be considered for TRT membership.

DATES: Comments must be received by November 28, 2023.

ADDRESSES: You may submit comments on this notice, by either of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2023–0104 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Mail: Assistant Regional Administrator for Protected Resources, NMFS West Coast Region, 501 W Ocean Blvd., Suite 4200, Long Beach, CA.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will

be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dan Lawson, West Coast Region, 206–526–4740, *dan.lawson@noaa.gov;* Kristy Long, Office of Protected Resources, 206–526–4792, *kristy.long@noaa.gov.*

SUPPLEMENTARY INFORMATION: Section 118 of the MMPA requires commercial fisheries to reduce incidental M/SI of marine mammals to insignificant levels approaching a zero mortality and serious injury rate (16 U.S.C. 1387). Section 118(c) of the MMPA requires NMFS to place all U.S. commercial fisheries into one of three categories based on the level of incidental M/SI of marine mammals occurring in each fishery (16 U.S.C. 1387(c)(1)). The classification of a fishery on the List of Fisheries (LOF) determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, including a take reduction plan. A Category I fishery has frequent incidental M/SI of marine mammals, a Category II fishery has occasional incidental M/SI of marine mammals, and a Category III fishery has a remote likelihood of or no known incidental M/SI of marine mammals.

Section 118(f)(1) of the MMPA requires NMFS to develop and implement TRPs designed to assist in the recovery or prevent the depletion of each strategic stock that interacts with Category I and II fisheries (16 U.S.C. 1387(f)(1)). The MMPA defines a strategic stock as a marine mammal stock: (1) for which the level of direct human-caused mortality exceeds the Potential Biological Removal (PBR) level; (2) which is declining and is likely to be listed under the Endangered Species Act (ESA) in the foreseeable future; or (3) which is listed as threatened or endangered under the ESA or as a depleted species under the MMPA (16 U.S.C. 1362(19)). PBR is the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (16 U.S.C. 1362(20)).

MMPA section 118(f)(6)(C) requires that members of TRTs have expertise regarding the conservation or biology of the marine mammal species that the TRP will address, or the fishing practices that result in the incidental M/SI of such species. As outlined in the statute ''[m]embers shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate'' ((16 U.S.C. 1387(f)(6)(C)). The MMPA further specifies that TRTs ''shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user and non-user interests'' (Id.).

As required under section 118 (f)(7) and section 118(f)(8), of the MMPA, a TRT shall develop a draft TRP by consensus, and shall submit this draft TRP to NMFS not later than 6 or 11 months after the date of the establishment of the TRT depending on the level of M/SI compared to a stock's PBR. Pursuant to the MMPA, NMFS convenes TRTs to develop recommendations that achieve a short-term goal of reducing incidental M/SI of marine mammals covered by the Plan to a rate below each stock's PBR within 6 months of implementation. The long-term goal of a Plan is to ''reduce, within 5 years of its implementation, the incidental M/SI of marine mammals from commercial fishing operations to insignificant levels, approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing state or regional fishery management plans.''

On July 26, 2023, the United States District Court for the Northern District of California adopted a Stipulated Settlement Agreement (Agreement) between NMFS and the Center for Biological Diversity to resolve claims in the matter of *Center of Biological Diversity* v. *Raimondo* (3:22–cv–00117–JD). Under the Agreement, NMFS expressed its intent to issue a scoping notice by November 1, 2023 seeking information relevant to establishing a TRT under Section 118 of the MMPA that would, at a minimum, consider the Category II Federal sablefish pot fishery, and may also be expanded to consider other fisheries in the Pacific Ocean that interact with relevant humpback whale stocks. As part of this agreement, NMFS committed to issue a notice establishing a TRT by October 31, 2025, and to convene the first TRT meeting by November 30, 2025.

In the 2022 Pacific and Alaska Stock Assessment Reports (SARs), stock structures for humpback whales in the Pacific Ocean were revised. The three existing North Pacific humpback whale stocks (Central North Pacific, Western North Pacific and CA/OR/WA) were replaced by five stocks to better align with the 2016 listing of humpback whale distinct population segments under the ESA (81 FR 62260, September 8, 2016). The new humpback whale stock are: (1) Western North Pacific, (2) Hawai'i, (3) Mexico-North Pacific, (4) Central America/Southern Mexico-CA/OR/WA and (5) Mainland Mexico-CA/OR/WA (Young *et al.,* 2023, Carretta *et al.,* 2023). All of these stocks are considered ''strategic'' under the MMPA, with the exception of the Hawai'i stock, because these stocks include humpback whales from ESA-listed populations and/or total annual human-caused M/SI currently exceeds the stock's PBR as described in the most recent SARs.

In the 2022 SAR, NMFS describes the M/SI associated with U.S. commercial fisheries that is known or estimated to occur for each stock. For the Central America/Southern Mexico-CA/OR/WA stock, the mean annual M/SI in U.S. commercial fisheries is 8.1, which is more than double this stock's PBR of 3.5 per year. As detailed in the SAR, numerous State and Federal fisheries contribute to this total, including the Federal sablefish pot fishery with an estimated M/SI of 0.66 from the limited entry and open-access sablefish pot sectors combined. In contrast, for the Mainland Mexico-CA/OR/WA stock, which overlaps in distribution with the Central America/Southern Mexico-CA/OR/WA stock to a large degree off the U.S. West Coast and exposure to U.S. commercial fisheries, the mean annual M/SI across the same subset of U.S. commercial fisheries is 11.4, which is about 27 percent of this stock's PBR of 43 per year. Given that the M/SI of the Central America/Southern Mexico-CA/OR/WA humpback whale stock exceeds the stock's PBR, and that the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks are vulnerable to the same U.S. commercial fisheries, including the Federal sablefish pot fishery, these humpback whale stocks would be subject to this TRT.

The 2023 LOF was finalized prior to the release of the final 2022 SAR (88 FR 16899, March 21, 2023). Classification of U.S. commercial fisheries on the 2023 (current) LOF is based on the level of incidental M/SI for the previously

designated CA/OR/WA stock of humpback whales. Currently, there are eight U.S. commercial fisheries identified as Category II fisheries due to incidental M/SI of the CA/OR/WA stock, with seven of those identified as pot or trap fisheries, including the Federal sablefish pot fishery. In the 2024 LOF, NMFS (88 FR 62748; September 13, 2023) has proposed to classify U.S. commercial fisheries based on the revised stock structure for humpback whales. The 2024 LOF does not propose to reclassify any additional U.S. West Coast commercial fisheries as Category I or II fisheries based on updated information and the revised humpback whale stock structure, although NMFS has proposed to elevate the California Dungeness crab pot fishery to Category I due to the M/SI of the Central America/Southern Mexico-CA/OR/WA stock of humpback whales. The Federal sablefish pot fishery would continue to be classified as Category II for both the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whales in the proposed 2024 LOF.

Public Comments Solicited

Prior to convening this TRT by October 31, 2025, NMFS is seeking public input on the scope of the TRT as well as other relevant information that will support planning for the TRT. Specifically, NMFS is seeking input on whether other Category I or II fisheries, beyond the Federal sablefish pot gear fishery, that incidentally kill or seriously injure the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whales, should be addressed by the TRT.

Additional information relevant to establishing this TRT includes information about the factors associated with risks of humpback whale or other large whale entanglements in U.S. commercial fisheries in the Pacific Ocean. This information could include available scientific or commercial data about the conduct of these fisheries, along with biological and ecological influences, and any other factors that affect the nature of interactions between large whales and U.S. commercial fishing gear.

Finally, NMFS is seeking to identify interested stakeholders who may wish to serve as TRT members. A seat on a Team is provided to ensure the interests of a constituency, organization, or expertise—and not a specific individual—are adequately represented. The intention is to be inclusive and ensure all those with a stake are represented at the table (either directly or through others on the Team). The stakeholders to be represented and interests to be included on the Team are determined on a case-by-case basis, depending on the scope of a given Team. In addition to the statutory criteria for Team membership noted above, NMFS also identifies candidate individuals who can ably represent the different interests. NMFS recruits candidate Team members based on the following:

- Ability to bring first-hand knowledge and perspective to bear on the relevant fisheries and/or marine mammal species;
- Ability to balance a regional perspective with localized knowledge;
- Willingness to express fundamental interests (as opposed to fixed positions) and to clearly convey the interests of one or more important stakeholder groups;
- Ability to work collaboratively, seeking to integrate the interests of a broad range of constituencies;
- Ability to access and use an effective communication network to reach members of their constituency not attending Team meetings;
- Availability and willingness to travel and participate in meetings;
- Proven track record of engaging in constructive dialogues on controversial resource management issues;
- Extent to which candidates' participation on other teams fosters or hinders deliberations; and,
- Ability to represent multiple factions of a constituency (*e.g.,* multiple sectors of a fishery or a wide array of particular fishery).

NMFS will conduct an independent process to identify and assess potential candidates for TRT membership prior to issuing a notice establishing the TRT.

References

Carretta, J.W., E.M. Oleson, K.A. Forney, M.M. Muto, D.W. Weller, A.R. Lang, J. Baker, B. Hanson, A.J. Orr, J. Barlow, J.E. Moore, and R.L. Brownell. 2023. U.S. Pacific Marine Mammal Stock Assessments: 2022. U.S. Department of Commerce. NOAA Technical Memorandum NMFS–SWFSC–684. 409 p.

Young, N.C, M.M. Muto, V.T. Helker, B.J. Delean, N.C. Young, J.C. Freed R.P. Angliss, N.A. Friday, P.L. Boveng, J.M. Breiwick, B.M. Brost, M.F. Cameron, P.J. Clapham, J.L. Crance, S.P. Dahle, M.E. Dahlheim, B.S. Fadely, M.C. Ferguson, L.W. Fritz, K.T. Goetz, R.C. Hobbs, Y.V. Ivashchenko, A.S. Kennedy, J.M. London, S.A. Mizroch, R.R. Ream, E.L. Richmond, K.E.W. Shelden, K.L. Sweeney, R.G. Towell, P.R. Wade, J.M. Waite, and Alexandre N. Zerbini. 2023. Alaska Marine Mammal Stock Assessments 2022. U.S. Department of Commerce. NOAA Technical Memorandum NMFS–AFSC–474. 316 p.

Dated: September 25, 2023.

Catherine Marzin,

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

[FR Doc. 2023–21333 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Response to Office Action and Voluntary Amendment Forms

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comments on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on July 11, 2023 during a 60-day comment period. This notice allows for an additional 30 days for public comment.

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

Title: Response to Office Action and Voluntary Amendment Forms.

OMB Control Number: 0651–0050.

Needs and Uses: This collection of information is required by the Trademark Act (Act), 15 U.S.C. 1051 *et seq.,* which provides for the registration of trademarks, service marks, collective trademark and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO. This information collection generally contains information that is not submitted with the initial trademark application but is associated with, or required for, the USPTO's review of applications for registration.

In some cases, the USPTO issues Office Actions to applicants who have applied to register a mark, requesting information that was not provided with the initial submission, but is required before the issuance of a registration.

Also, the USPTO may determine that a mark is not entitled to registration, pursuant to one or more provisions of the Act. In such cases, the USPTO will issue an Office Action advising the applicant of the refusal to register the mark. Applicants reply to these Office Actions by providing the required information and/or by putting forth legal arguments as to why the refusal of registration should be withdrawn.

The USPTO administers the Act through title 37 of the Code of Federal Regulations. These rules allow the USPTO to request and receive information required to process applications. These rules also allow applicants to submit certain amendments to their applications.

Applicants may also supplement their applications and provide further information by filing a Voluntary Amendment Not in Response to USPTO Office Action/Letter, a Request for Reconsideration after Final Office Action, a Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment, a Petition to Amend Basis Post-Publication, or a Response to Suspension Inquiry or Letter of Suspension.

The 60-Day **Federal Register** notice was published with the form numbers associated with this information collection inadvertently left off. In this notice, the USPTO has included the form numbers associated with this information collection.

Form Numbers

- PTO–1771 (Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment)
- PTO–1772 (Petition to Amend Basis Post-Publication)
- PTO–1822 (Response to Suspension Inquiry or Letter of Suspension)
- PTO–1957 (Response to Office Action)
- PTO–1960 (Request for Reconsideration After Final Office Action)
- PTO–1966 (Voluntary Amendment Not in Response to USPTO Office Action/Letter)

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency: On occasion.

Estimated Number of Annual Respondents: 518,643 respondents.

Estimated Number of Annual Responses: 518,643 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately between 25 minutes (0.42 hours) and 50 minutes (0.83 hours) to complete. This includes the time to gather the necessary information, create the document, and submit the complete request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 420,113 hours.

Estimated Total Annual Respondent Non-Hourly Cost Burden: $699,101.

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

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website, *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review–Open for Public Comments'' or by using the search feature and entering the title of the information collection of the OMB Control Number, 0651–0050.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0050 information request'' in the subject line of the message.
- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Justin Isaac,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2023–21539 Filed 9–28–23; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Global Intellectual Property Academy (GIPA) Surveys

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comments on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on July 26, 2023 during a 60-day comment period. This notice allows for an additional 30 days for public comment.

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

Title: Global Intellectual Property Academy (GIPA) Surveys.

OMB Control Number: 0651–0065.

Needs and Uses: The Global Intellectual Property Academy (GIPA) was established in 2006 to offer training programs on enforcement of intellectual property rights, patents, trademarks, and copyrights. GIPA's training programs are designed to meet the specific needs of foreign government officials concerning various intellectual property topics. By attending these programs, foreign government officials learn about global intellectual property rights protection and enforcement and discuss strategies to handle the protection and enforcement issues in their respective countries. The GIPA training programs are an important instrument that USPTO uses to achieve its objectives of halting intellectual property theft and advancing intellectual property right policies.

The surveys in this information collection are conducted in an effort to provide additional details on ''who'' participants are, what kind of positions they hold, length of time working in an intellectual property area, type of organizations where respondents work, type of intellectual property functions, and the effect of the GIPA program on their professional work and their country's intellectual property efforts. This information is being collected to improve the services that the USPTO provides in its missions of serving the international IP community. The data captured will also be used to help meet organizational performance and accountability goals through the following legislative mandates and performance guidance:

- Government Performance and Results Act of 1993 (GPRA); [1]
- Government Performance and Results Modernization Act of 2010 (GPRMA); [2]

[1] *https://www.congress.gov/103/statute/STATUTE-107/STATUTE-107-Pg285.pdf.*

[2] *https://www.congress.gov/111/plaws/publ352/PLAW-111publ352.pdf.*

• President's Management Agenda (PMA); [3] and

• Foundations for Evidence Based Policy Making Act of 2018.[4]

Evaluation and measurement efforts provide methodologically rigorous data activity and analyses in place of more subjective, ad hoc, non-standardized anecdotal material.

These voluntary surveys support various business goals developed by the USPTO to fulfill customer service and performance goals, to assist the USPTO in strategic planning for future initiatives, to verify existing service standards, and to establish new ones. The USPTO also uses these surveys to implement Executive Order 12862 of September 11, 1993, *Setting Customer Service Standards,* published in the **Federal Register** on September 14, 1993 (58 FR 48257).[5] The USPTO does not intend to collect any personally identifying data from the participants and intends to maintain the contact information for the participants in a separate file for the quantitative data.

Form Numbers: None.

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

Affected Public: Individuals or households.

Respondent's Obligation: Voluntary.

Frequency: On occasion.

Estimated Number of Annual Respondents: 750 respondents.

Estimated Number of Annual Responses: 750 responses.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 15 minutes (0.25 hours) to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 188 hours.

Estimated Total Annual Respondent Non-Hourly Cost Burden: $0.

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

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website, *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection of the OMB Control Number, 0651–0065.

Further information can be obtained by:

• *Email: InformationCollection@uspto.gov.* Include ''0651–0065 information request'' in the subject line of the message.

• *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Justin Isaac,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2023–21538 Filed 9–28–23; 8:45 am]

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[3] *https://www.performance.gov/pma/.*

[4] *https://www.congress.gov/115/plaws/publ435/PLAW-115publ435.pdf.*

[5] *https://tile.loc.gov/storage-services/service/ll/fedreg/fr058/fr058176/fr058176.pdf.*

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes a product from the Procurement List that was furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date deleted from the Procurement List:* October 29, 2023.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 8/25/2023, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
7210–00–266–9740—Cot Insect Net Protector, Olive Green

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–21420 Filed 9–28–23; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND PLACE: Wednesday, October 4, 2023—10:00 a.m.

PLACE: Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, MD.

STATUS: Commission Meeting—Open to the Public

MATTERS TO BE CONSIDERED:

Decisional Matter: Notice of Proposed Rulemaking—Safety Standard for Infant Rockers and Infant/Toddler Rockers.

A live webcast of the meeting can be viewed at the following link: *https://cpsc.webex.com/weblink/register/rcba2daff690fcdbc61d969fd800c6446.*

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8939 (Cell).

Dated: September 27, 2023.

Elina Lingappa,

Paralegal Specialist, Office of the Commission Secretary.

[FR Doc. 2023–21720 Filed 9–27–23; 4:15 pm]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meetings

The Board of Directors of the Corporation for National and Community Service (operating as AmeriCorps) gives notice of the following meeting:

TIME AND DATE: Thursday, October 19, 2023, 12 p.m.–1:30 p.m. (ET).

PLACE: AmeriCorps, 250 E Street SW, Washington, DC 20525. For health and safety reasons, this will be a virtual meeting.

- To register for the meeting, please use this link: *https://americorps.zoomgov.com/webinar/register/WN_GyvUyskiTySJh46ViJR5mg.*
- Webinar ID: 161 080 7298 Passcode: 129418.
- To participate by phone, call toll free: (833) 568–8864.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

I. Opening Remarks by the Chair
II. CEO Report
III. Reflection of 9/11 Day of Service
IV. Oversight, Governance, and Audit Committee Report
V. Approval of Grant Plan
VI. Spotlight: AmeriCorps' 30th Anniversary
VII. Public Comment
VIII. Chair's Closing Remarks and Adjournment

Members of the public who would like to comment on the business of the Board may do so in writing or virtually. Submit written comments to *board@cns.gov* with the subject line: ''Comments for October 19, 2023, AmeriCorps Board Meeting'' no later than 5:00 p.m. (ET) October 14, 2023. Individuals who would like to comment during the meeting will be given instructions for signing up when they join the meeting. Comments are requested to be limited to two minutes.

AmeriCorps provides reasonable accommodation to individuals with disabilities, where needed.

CONTACT PERSON FOR MORE INFORMATION: Heather Leinenbach by telephone: (202) 489–5266 or by email: *board@cns.gov.*

Fernando Laguarda,

General Counsel.

[FR Doc. 2023–21752 Filed 9–27–23; 4:15 pm]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Regents, Uniformed Services University of the Health Sciences; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Board of Regents, Uniformed Services University of the Health Sciences (BoR USUHS) will take place.

DATES: Friday, October 20, 2023, open to the public from 12:30 p.m. to 5 p.m. eastern time.

ADDRESSES: Keystone Conference Center, Bldg. 17–104, Fort Indiantown Gap, Annville, PA, 17003. The meeting will be held both in-person and virtually. To participate in the meeting, see the Meeting Accessibility section for instructions.

FOR FURTHER INFORMATION CONTACT: Annette Askins-Roberts, Designated Federal Officer (DFO), at (301) 295–3066 or *bor@usuhs.edu.* Mailing address is 4301 Jones Bridge Road, Bethesda, MD 20814. Website: *https://www.usuhs.edu/ao/board-of-regents.*

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

Purpose of the Meeting: The purpose of the meeting is to provide advice and recommendations to the Secretary of Defense, through the USD(P&R), on academic and administrative matters critical to the full accreditation and successful operation of Uniformed Services University (USU). These actions are necessary for USU to pursue its mission, which is to educate, train, and comprehensively prepare uniformed services health professionals, officers, scientists, and leaders to support the Military and Public Health Systems, the National Security and National Defense Strategies of the United States, and the readiness of our Uniformed Services.

Agenda: The schedule includes opening comments from the Chair; a debrief for Operation Bushmaster; a recommendation deliberation on the Supreme Court Decision on Higher Learning/Affirmative Action; a brief from the President of USU; a brief on the Legislative Process; and an overview of the Center for Health Services Research.

Meeting Accessibility: Pursuant to Federal statutes and regulations (5 U.S.C. Appendix, 5 U.S.C. 552b, and 41 CFR 102–3.140 through 102–3.165), the meeting will be held in-person and virtually and is open to the public from 12:30 p.m. to 5:00 p.m. Seating is on a first-come basis. Members of the public wishing to attend the meeting in-person or virtually should contact Ms. Angela Bee via email at *bor@usuhs.edu* no later than five business days prior to the meeting.

Written Statements: Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.140, the public or interested organizations may submit written comments to the BoR USUHS about its approved agenda pertaining to this meeting or at any time regarding the Board's mission. Individuals submitting a written statement must submit their statement to Ms. Askins-Roberts at the address noted in the **FOR FURTHER INFORMATION CONTACT** section. Written statements that do not pertain to a scheduled meeting of the BoR USUHS may be submitted at any time. If individual comments pertain to a specific topic being discussed at the planned meeting, then these statements must be received at least five calendar days prior to the meeting. Otherwise, the comments may not be provided to or considered by the Board until a later date. The DFO will compile all timely submissions with the BoR USUHS' Chair and ensure such submissions are provided to BoR USUHS members before the meeting.

Dated: September 25, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–21332 Filed 9–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Diversity and Inclusion; Notice of Federal Advisory Committee Meeting; Cancellation

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Notice of cancellation of Federal advisory committee meeting.

SUMMARY: On August 28, 2023, the DoD published a notice announcing the next meeting of the Defense Advisory Committee on Diversity and Inclusion (DACODAI) on October 5, 2023, from 11:45 a.m. to 3:30 p.m. (EST) and October 6, 2023, from 8:15 a.m. to 12:45 p.m. (EST). DoD is publishing this notice to announce that this Federal Advisory Committee meeting of the DACODAI is cancelled and will be rescheduled at a later date. The rescheduled meeting will be announced in the **Federal Register**.

DATES: Thursday, October 5, 2023, from 11:45 a.m. to 3:30 p.m. (EST) and Friday, October 6, 2023, from 8:15 a.m. to 12:45 p.m.—*CANCELLED.*

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Raguindin, (571) 645–6952 (voice), *shirley.s.raguindin.civ@mail.mil* or *osd.mc-alex.ousd-p-r.mbx.dacodai@mail.mil* (email).

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Department of Defense and the Designated Federal Officer for the Defense Advisory Committee on Diversity and Inclusion, the Defense Advisory Committee on Diversity and Inclusion was unable to provide public notification required by 41 CFR 102–3.150(a) concerning the cancellation of its October 5–6, 2023 meeting. Accordingly, the Advisory Committee Management Officer for Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: September 25, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2023–21330 Filed 9–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2023- OS–0091]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

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

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of Military Family Readiness, 4800 Mark Center Drive, Suite 3G15, Alexandria, VA 22350, Stacey Young, (571) 372–0867.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Military Child Development Program Workforce Survey; OMB Control Number 0704–MCDP.

Needs and Uses: This project is needed to analyze, identify, and offer solutions for factors contributing to the staffing issues to support DoD in making informed decisions on ways to improve the strategies to recruit, train, and retain qualified staff within the Child Development Program.

Affected Public: Individuals or households.

Annual Burden Hours: 1308.

Number of Respondents: 5232.

Responses per Respondent: 1.

Annual Responses: 5232.

Average Burden Per Response: 15 minutes.

Frequency: Once.

Dated: September 26, 2023.

Natalie M. Ragland,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–21541 Filed 9–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2023–OS–0092]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

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

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

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

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

Mail: Department of Defense, Office of the Director of Administration and Management, Directorate for Oversight and Compliance, 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 Defense Human Resources Activity, 4800 Mark Center Drive, Suite 08F05, Alexandria, VA 22350, LaTarsha Yeargins, 571–372–2089.

SUPPLEMENTARY INFORMATION: Section 572 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 required commanders of each military command to conduct a climate assessment of the command or unit for purposes of preventing and responding to sexual assaults. A subsequent November 2015 memo from the Acting Under Secretary of Defense for Personnel and Readiness (USD P&R) designated the DEOCS as the survey tool to support the NDAA requirement for a DoD command climate assessment program. As outlined in DoD Instruction (DoDI) 6400.11, all active duty and Reserve component commanders and DoD civilian organization leaders are required to administer a DEOCS to their unit or organization annually. Also included in the DEOCS population are active duty and Reserve component members of the Coast Guard, students at the U.S. Military Service Academies, U.S. Coast Guard Academy, and U.S. Merchant Marine Academy, and foreign nationals working for the DoD. The survey is web-based and is a census of the commander's unit. The core survey questions are organized into three main categories that include (1) unit experience, (2) leadership, and (3) behaviors and personal experience. To fulfill the requirement outlined in DoDI 1350.02 of fielding a survey to assess racial and ethnic relations in the military, a sample of active duty and Reserve component members who take the DEOCS in 2024 will be provided additional questions on racial and ethnic issues.

Title; Associated Form; and OMB Number: Defense Organizational Climate Survey (DEOCS)—Version 5.1; OMB Control Number 0704–0659.

Needs and Uses: The DEOCS is fielded in response to Section 572 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013. A May 2019 memo from the Acting Secretary of Defense directed that the goals of the DEOCS include developing and providing leaders with assessment tools ''that help them with developing an appropriate course of action from a suite of interventions and provide them with feedback on their impact of their efforts.'' The information gathered from the DEOCS will be used by commanders, prevention workforce personnel, equal opportunity officers (EOAs), survey administrators, and other leaders to assess the unit's command climate and measure the risk and protective factors associated with the six strategic target outcomes (sexual assault, sexual harassment, racial/ethnic discrimination, suicide, readiness, and retention). Based on the DEOCS results, commanders/leaders, their command climate administrator, and their Integrated Primary Prevention Workforce (IPPW) personnel will develop a Comprehensive Integrated Primary Prevention (CIPP) plan to positively impact their organization's leadership climate. The survey results are provided to the commander/leader, their command climate administrator, and their IPPW personnel. Survey responses could also be used in future analyses.

The statutory and policy requirements for the DEOCS can be found in the following:

- FY13 NDAA, Section 572
- FY14 NDAA, Section 1721
- DoD Instruction (DoDI) 6400.11, ''DoD Integrated Primary Prevention Policy for Prevention Workforce and Leaders''
- DoD Instruction (DoDI) 1350.02, ''DoD Military Equal Opportunity Program'' Office of the Under Secretary of Defense for Personnel and Readiness. (2018).

Realignment of force resiliency elements of the Office of the Under Secretary of Defense for Personnel and Readiness [Memorandum]. The DEOCS fielded in 2024 will also include items that meet the requirement to collect information on racial and ethnic issues among active duty and Reserve component members. To reduce survey burden, the Department identified the DEOCS as the most appropriate existing survey vehicle to collect this information. The statutory and policy requirements for collecting information on racial and ethnic issues among active duty and Reserve component members can be found in the following:

- Immediate Actions to Improve Diversity & Inclusion (Esper, 2020)

Affected Public: Individuals or households.

Annual Burden Hours: 926,973.

Number of Respondents: 1,589,098.

Responses per Respondent: 1.

Annual Responses: 1,589,098.

Average Burden per Response: 35 minutes.

Frequency: As required.

Unit commanders and organizational leaders must administer a DEOCS during the Annual Force-wide administration. There is not a standardized method for defining at which level in the hierarchy units are required to take the DEOCS, how to define a unit, or how to define unit membership. As a result, there may be overlap between DEOCS units resulting in individuals taking more than one DEOCS. The additional survey items included on the DEOCS to meet the requirement to gather information on racial and ethnic issues among active duty and Reserve component members is collected biennially (*i.e.* every other year).

Dated: September 26, 2023.

Natalie M. Ragland,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–21542 Filed 9–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2023–HA–0093]

Proposed Collection; Comment Request

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

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Health Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be

collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Health Agency, 7700 Arlington Blvd., Falls Church, VA 22042, Amanda Grifka, 703–681–1771.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Prescription Drop Off/Activation Form; DHA Form 298; OMB Control Number 0720–PDOA.

Needs and Uses: DHA Form 298, Prescription Drop-Off/Activation, is a standardized form for prescription activation/drop-off across all military medical treatment facilities (MTFs). DHA Form 298 allows pharmacy patients the option to request the MTF pharmacy activate/process their prescriptions without having to wait in a line to speak with pharmacy staff. This may also include the ability to drop off the form outside of normal pharmacy hours. Copies of the form may be provided physically in the MTF, or it is possible that MTFs may provide it electronically for patient use to complete/print at their convenience. The MTF pharmacy uses the information provided in the form to process the requested prescriptions for the patients to pick up later.

Affected Public: Individuals or households.

Annual Burden Hours: 5,000.

Number Of Respondents: 100,000.

Responses per Respondent: 1.

Annual Responses: 100,000.

Average Burden Per Response: 3 minutes.

Frequency: On occasion.

Dated: September 26, 2023.

Natalie M. Ragland,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–21540 Filed 9–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0057]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

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

DATES: Consideration will be given to all comments received by October 30, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Non Typical Military Community Representatives; DoD-wide Data Collection and Analysis for the Department of Defense Qualitative and Quantitative Data Collection in Support of the Independent Review Commission on Sexual Assault Recommendations; OMB Control Number 0704–0644.

Type of Request: New Collection.

Number of Respondents: 32.

Responses per Respondent: 1.

Annual Responses: 32.

Average Burden per Response: 1 hour.

Annual Burden Hours: 32.

Needs and Uses: The Independent Review Commission (IRC) on Sexual Assault in the Military recommended that the Department develop and hold leaders appropriately accountable for prevention (IRC Recommendation 2.1b) and determine the optimum full-time prevention workforce (IRC Recommendation 2.2c). The information collection requirement is necessary to obtain information on the structural and systemic barriers and facilitators that must be considered when building a system for prevention and implementing prevention.

Affected Public: DoD Service members, DoD civilians.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

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

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

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

DOD Clearance Officer: Ms. Angela Duncan.

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

Dated: September 26, 2023.

Natalie M. Ragland,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–21543 Filed 9–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0139]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Teacher Education Assistance for College and Higher Education Grant Eligibility Regulations

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 30, 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 Beth Grebeldinger, 202–377–4018.

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: Teacher Education Assistance for College and Higher Education Grant Eligibility Regulations.

OMB Control Number: 1845–0084.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: Private Sector; Individuals and Households; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 233,844.

Total Estimated Number of Annual Burden Hours: 37,175.

Abstract: The College Cost Reduction and Access Act (the CCRAA), Public Law 110–84, established the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program under Part A of the Higher Education Act of 1965, as amended (the HEA). The regulations for the TEACH Grant Program are in 34 CRF 686. The following sections of the TEACH Grant regulations are included in this information collection: 686.4, 686.11, 686.32, and 686.34. This is a request for an extension of the existing burden hours in OMB Control Number 1845–0084. The regulations in 686.4 require an institution that ceases to participate or becomes ineligible to participate in the TEACH Grant program during an award year to report to the Department of Education (the Department) within 45 days after the effective date of the loss of eligibility. The regulations in 686.11 establish that in addition to meeting the student eligibility requirements, in order to receive a TEACH Grant the applicant must submit the designated application, sign a TEACH Grant agreement to serve or repay (this burden is captured under OMB Control Number 1845–0083), and enroll in a TEACH Grant eligible institution. The regulations in 686.32 require an institution to provide initial, subsequent, and exit counseling to each TEACH Grant recipient and maintain documentation substantiating the counseling requirements. The regulations in 686.34 require the institution to promptly provide written notification to a student requesting repayment of any overpayment that the institution does not have responsibility to repay. The regulations also require that the institution refer the student to the Department if the student does not take positive action to promptly resolve the TEACH Grant overpayment. In addition, in 686.34 there is conversion counseling requirements for grant recipients whose TEACH Grants are converted to Direct Unsubsidized Loans.

Dated: September 25, 2023.

Kun Mullan,

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

[FR Doc. 2023–21310 Filed 9–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0178]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Grants Under the Centers for International Business Education (1894–0001)

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 30, 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 Timothy Duvall, 202–987–0383.

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: Application for Grants under the Centers for International Business Education (1894–0001).

OMB Control Number: 1840–0616.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: Private sector

Total Estimated Number of Annual Responses: 27.

Total Estimated Number of Annual Burden Hours: 692.

Abstract: This information collection (OMB 1840–0616) includes application instructions and forms for the Centers for International Business Education (CIBE) Program (CFDA Number 84.220A), authorized under title VI of the Higher Education Act of 1965, as amended (20 U.S.C. 1130–1). This is an extension of a currently approved information collection (application), due to a Change Due to Adjustment in Agency Estimate.

The Centers for International Business Education (CIBE) program offers consulting services on international business and marketing to businesses in their areas, develop business language curriculum, and teach international business topics to undergraduate and graduate students. CIBEs also partner with business and professional associations to offer internships and other real-world experience to prepare career-ready international business students. CIBEs serve to strengthen the American economy in our increasingly interconnected world by enabling U.S. citizens and companies to compete in the international business arena.

Approval of this collection is necessary in order to conduct future CIBE program competitions.

The authorizing legislation and program-specific regulations are incorporated in the application package attached to this supporting statement.

This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Dated: September 26, 2023.

Kun Mullan,

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

[FR Doc. 2023–21424 Filed 9–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0140]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; High School and Beyond 2022 (HS&B:22) First Follow-up Field Test Data Collection

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

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before October 30, 2023.

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

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

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

Title of Collection: High School and Beyond 2022 (HS&B:22) First Follow-up Field Test Data Collection.

OMB Control Number: 1850–0944.

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

Respondents/Affected Public: Individuals and households

Total Estimated Number of Annual Responses: 8,361.

Total Estimated Number of Annual Burden Hours: 4,072.

Abstract: The High School and Beyond Longitudinal Study of 2022 (HS&B:22) is the sixth in a series of longitudinal studies at the high school level conducted by the National Center for Education Statistics (NCES), within the Institute of Education Sciences (IES) of the U.S. Department of Education. HS&B:22 is following a nationally representative sample of ninth grade students from the start of high school in the fall of 2022 to the spring of 2026 when most will be in twelfth grade. The sample will be freshened in 2026 to create a nationally representative sample of twelfth-grade students. A high school transcript collection and additional follow-up data collections beyond high school are also planned.

A field test was conducted in fall 2019 and the first follow-up field test (F1FT) is planned for spring 2024 in preparation for the spring 2026 first follow-up full-scale study (F1FS).This submission is to request approval to conduct the HS&B:22 F1FT collection in the spring of 2024. OMB provided approval for F1FT sampling, tracking, and recruitment in March 2021 (OMB# 1850–0944 v.9).

Part A of this submission presents information on the basic design of HS&B:22. Part B discusses the statistical methods employed. Part C presents justification for the questionnaire content. Appendix A provides the communication materials to be used during state, school district, school, student, and parent F1FT recruitment and data collection activities. Appendix B provides the first follow-up field test data collection instruments.

Dated: September 26, 2023.

Stephanie Valentine,

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

[FR Doc. 2023–21461 Filed 9–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0075]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; Master Generic Plan for Customer Surveys, Focus Groups, and Challenges/Contests

AGENCY: Department of Education (ED).

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before October 30, 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 Stephanie Valentine, 202–987–1805.

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: Master Generic Plan for Customer Surveys, Focus Groups, and Challenges/Contests.

OMB Control Number: 1800–0011.

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

Respondents/Affected Public: State, Local, and Tribal Governments; Individuals or Households.

Total Estimated Number of Annual Responses: 225,703.

Total Estimated Number of Annual Burden Hours: 57,722.

Abstract: The Department is requesting an additional 30-day comment period due to the addition of challenges and contests to this generic clearance.

Surveys to be considered under this generic will only include those surveys that improve customer service or collect feedback about a service provided to individuals or entities directly served by ED. The results of these customer surveys will help ED managers plan and implement program improvements and other customer satisfaction initiatives. Focus groups that will be considered under the generic clearance will assess customer satisfaction with a direct service or will be designed to inform a customer satisfaction survey ED is considering. Surveys that have the potential to influence policy will not be considered under this generic clearance.

ED will also launch challenges or prize competitions on occasion in a short turnaround. The information collected for challenges and prize competitions will generally include the submitter's or other contact person's first and last name, organizational or school affiliation; email address or other contact information (to follow up if the submitted entry is selected as a finalist or winner); street address (to confirm that the submitter or affiliated school or organization for eligibility purposes); and a video or a narrative description for the specific challenge or contest. ED may also request information indicating the submitter's educational level, ethnicity, age range, gender, and race (to evaluate entrants' diversity and backgrounds). Finally, ED may ask for additional information tailored to the challenge or prize competition through structured questions. This information will enable the Department to create and administer challenges and prize competitions more effectively.

Upon entry or during the judging process, entrants under the age of 18 will be asked to confirm parental consent, which will require them to obtain and provide a parent or guardian signature in a format outlined in the specific criteria of each challenge or prize competition to qualify for the contest. To protect online privacy of minors, birthdate may be required by the website host to ensure the challenge platform meets the requirements of all privacy laws.

Dated: September 26, 2023.

Stephanie Valentine,

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

[FR Doc. 2023–21535 Filed 9–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0174]

Agency Information Collection Activities; Comment Request; Engage Every Student Recognition Program

AGENCY: Office of the Secretary (OS), 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 November 28, 2023.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2023–SCC–174. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 4C210, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection

activities, please contact Shital Shah, 202–257–6477.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Engage Every Student Recognition Program.

OMB Control Number: 1894–NEW.

Type of Review: A new ICR.

Respondents/Affected Public: Individuals and households.

Total Estimated Number of Annual Responses: 570.

Total Estimated Number of Annual Burden Hours: 855.

Abstract: The American Rescue Plan (ARP) provides funding for implementing comprehensive, evidence-based programs to ensure resources respond to students' academic, social, and emotional needs and address the disproportionate impact of COVID–19 on student populations. Using resources provided by the ARP, States, districts, and their partners can use out-of-school time (OST) to address the disproportionate impact of COVID–19 on students, families, and their communities.

Out-of-school time programs, which occur before or after the regular school day or outside of the regular school year, can include a wide range of activities, including comprehensive afterschool or summer-learning and enrichment programs, vacation academies, work-based learning programs, youth development programs, and experiential or service-learning programs.

On July 14th, 2022, the U.S. Department of Education, along with the Afterschool Alliance, AASA—the School Superintendents Association, the National Comprehensive Center at Westat, the National League of Cities and the National Summer Learning Association, launched the Engage Every Student Initiative designed to ensure that every student who wants a spot in a high-quality out-of-school time program has one.

In the Fall of 2023, the U.S. Department of Education and the five partnering organizations designed the Engage Every Student Recognition Program, which aims to recognize (1) non-profit organizations working in collaboration with school district/local education agencies (LEAs) or (2) municipalities or local government entities working in collaboration with school district/local education agencies (LEAs) that engage K–12 students in high-quality afterschool or summer learning programming, with high-quality being defined as meeting students' social, emotional, mental, and physical health, and academic needs and addressing the impact of COVID–19 on students' opportunity to learn.

Dated: September 25, 2023.

Stephanie Valentine,

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

[FR Doc. 2023–21335 Filed 9–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0179]

Agency Information Collection Activities; Comment Request; Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

AGENCY: Office of Civil Rights (OCR), Department of Education (ED).

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before November 28, 2023.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2023–SCC–0179. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 4C210, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alejandro Reyes, 202–245–7272.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in

response to this notice will be considered public records.

Title of Collection: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

OMB Control Number: 1870–0505.

Type of Review: An extension of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 119,860.

Total Estimated Number of Annual Burden Hours: 1,892,188.

Abstract: This is a renewal of an existing collection under OMB Control No. 1870–0505. This collection was originally submitted by the U.S. Department of Education (the Department) in December 2018 in connection with a Notice of Proposed Rulemaking for the Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance to propose amendments to the Department's implementing regulations for Title IX of the Education Amendments of 1972. (ICR Reference No. 201811–1870–001). The Department finalized its rulemaking in May 2020 and the ICR was approved by OMB on December 8, 2020 (ICR Reference No. 202005–1870–001). The ICR is scheduled to expire on December 31, 2023. The regulations that require the collection of information are set forth below.

Section 106.45(b)(2) Notice of Allegations requires all recipients, upon receipt of a formal complaint, to provide written notice to the complainant and the respondent, informing the parties of the recipient's grievance process and providing sufficient details of the sexual harassment allegations being investigated. This written notice will help ensure that the nature and scope of the investigation, and the recipient's procedures, are clearly understood by the parties at the commencement of an investigation.

Section 106.45(b)(9) Informal resolution requires that recipients who wish to provide parties with the option of informal resolution of formal complaints, may offer this option to the parties but may only proceed by: first, providing the parties with written notice disclosing the sexual harassment allegations, the requirements of an informal resolution process, any consequences from participating in the informal resolution process; and second, obtaining the parties' voluntary, written consent to the informal resolution process. This provision permits—but does not require—recipients to allow for voluntary participation in an informal resolution as a method of resolving the allegations raised in formal complaints without completing the investigation and adjudication. Additionally, recipients may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Section 106.45(b)(10) requires recipients to maintain certain documentation regarding their Title IX activities. Recipients would be required to maintain for a period of seven years records of: sexual harassment investigations, including any determination regarding responsibility and any audio or audiovisual recording or transcript required under § 106.45(b)(6)(i), any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity; any appeal and the result therefrom; any informal resolution; and all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Additionally, for each response required under § 106.44(a), a recipient must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

Dated: September 25, 2023.

Stephanie Valentine,

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

[FR Doc. 2023–21467 Filed 9–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0114]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Evaluation of the Professional Learning Resources of the REL NW Toolkit for Using Technology To Support Postsecondary Student Learning

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 October 30, 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 Heidi Gansen, 202–245–6765.

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: Evaluation of the Professional Learning Resources of the REL NW Toolkit for Using Technology to Support Postsecondary Student Learning.

OMB Control Number: 1850–NEW.

Type of Review: A new ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 13,177.

Total Estimated Number of Annual Burden Hours: 1,280.

Abstract: The current authorization for the Regional Educational Laboratories (REL) program is under the Education Sciences Reform Act of 2002, part D, section 174, (20 U.S.C. 9564), administered by the Department of

Education, Institute of Education Sciences (IES), National Center for Education Evaluation and Regional Assistance (NCEE). The central mission and primary function of the RELs is to support applied research and provide technical assistance to state and local education agencies within their region (ESRA, part D, section 174[f]). The REL program's goal is to partner with educators and policymakers to conduct work that is change-oriented and supports meaningful local, regional, or state decisions about education policies, programs, and practices to improve outcomes for students.

The Regional Educational Laboratory Northwest is developing a toolkit based on the Using Technology to Support Postsecondary Student Learning What Works Clearinghouse (WWC) Practice Guide to support student learning in community college contexts. Community college instructors, across all disciplines, including those who teach in person, hybrid (remote and in person), and online courses, are the primary audience for the Toolkit.

This toolkit's efficacy evaluation will collect information about the professional learning resources, organized as the eAcademy: Professional Learning for Using Technology to Enhance Learning, that will comprise the main component of the Toolkit. In the efficacy study, the eAcademy will be offered to instructors in community colleges in Oregon. The evaluation of the eAcademy includes two parts: first, using a random assignment design, researchers will examine the impact of the eAcademy on instructor knowledge, teaching practices, and student outcomes. Second, researchers will collect implementation data to understand fidelity of implementation, treatment contrast, and how the eAcademy influences instructor and student outcomes.

The research questions include: What is the impact of the eAcademy on instructors' awareness of technology tools for learning, knowledge of how to use technology for learning, and comfort using education technologies to support student learning, what is the impact of the eAcademy on instructors' use of technology to support student learning, and what is the impact of the eAcademy on student engagement, interaction, course completion, and persistence to the next quarter?

The goals of the program evaluation include documenting the content of eAcademy (topics covered and activities provided), the way the eAcademy is implemented, and the treatment dosage to understand fidelity of implementation. The evaluation study will provide further insight into how the eAcademy is related to instructor- and student-level outcomes, and the implementation study will document treatment contrast between the eAcademy and other available professional resources. eAcademy participation data will be used to affirm whether instructors in the treatment group accessed the professional resources and instructors in the control group did not.

Findings from the implementation study may be used to improve future iterations of the eAcademy and to update the WWC Practice Guide recommendations. They may also generate ideas for new approaches to professional development that lead to better outcomes.

Dated: September 26, 2023.

Stephanie Valentine,

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

[FR Doc. 2023–21536 Filed 9–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0125]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Implementation Study of Student Support and Academic Enrichment Grants (Title IV, Part A)

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 revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 30, 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 Claire Allen-Platt, (202) 987–1090.

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

Title of Collection: National Implementation Study of Student Support and Academic Enrichment Grants (Title IV, Part A).

OMB Control Number: 1850–0968.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: State, local, and Tribal governments.

Total Estimated Number of Annual Responses: 356.

Total Estimated Number of Annual Burden Hours: 172.

Abstract: This study will collect information about policy and program implementation of the grants administered under title IV, part A of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), to describe and report on districts' decision-making process for use of title IV, part A funds, how states help inform districts' decisions, and what topic areas and activities are funded with title IV, part A funds. The revision will amend the study to eliminate an optional survey planned for 2024 and add a new information collection. The new collection will obtain information about a new grant administered through title IV–A, the Bipartisan Safer Communities Act (BSCA) Stronger Connections (SC) grant program, which awards funds to states and districts to promote safer, more inclusive learning environments and support the social, emotional, physical, and mental health of students.

Dated: September 25, 2023.

Stephanie Valentine,

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

[FR Doc. 2023–21336 Filed 9–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0176]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2023–24 National Postsecondary Student Aid Study (NPSAS:24) Full-Scale Study—Student Data Collection and Student Records

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

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before October 30, 2023.

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

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

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

Title of Collection: 2023–24 National Postsecondary Student Aid Study (NPSAS:24) Full-Scale Study—Student Data Collection and Student Records.

OMB Control Number: 1850–0666.

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

Respondents/Affected Public: Individuals and households.

Total Estimated Number of Annual Responses: 109,145.

Total Estimated Number of Annual Burden Hours: 91,185.

Abstract: This request is to conduct the 2023–24 National Postsecondary Student Aid Study (NPSAS:24) Full-Scale Student Data and Student Records Collections. This study is being conducted by the National Center for Education Statistics (NCES), within the Institute of Education Sciences (IES), part of the U.S. Department of Education. This submission covers materials and procedures related to institution sampling, enrollment list collection, and matching to administrative data files as part of the NPSAS:24 data collection. The materials and procedures are based on those developed for previous institution-based data collections, including the 2019–20 National Postsecondary Student Aid Study (NPSAS:20) [OMB #1850–0666 v.23], and the 2017–18 National Postsecondary Student Aid Study Administrative Collection (NPSAS:18–AC) [1850–0666 v.21]. The first NPSAS was implemented by NCES during the 1986–87 academic year to meet the need for national data about significant financial aid issues.

Since 1987, NPSAS has been fielded every 2 to 4 years, most recently during the 2019–20 academic year (NPSAS:20). NPSAS:24 will be nationally-representative. The NPSAS:24 sample size will include about 2,000 institutions from which will be sampled 137,000 nationally representative undergraduate and 25,000 nationally representative graduate students who will be asked to complete a survey and for whom we will collect student records and administrative data. Also, NPSAS:24 is scheduled to serve as the base year for the 2024 cohort of the Baccalaureate and Beyond (B&B) Longitudinal Study, but no funding is available to field follow-up surveys. In the event Congress appropriates additional funds, the NPSAS:24 sampling design will include a nationally representative sample of students who will complete requirements for the bachelor's degree during the NPSAS year (*i.e.,* completed at some point between July 1, 2023, to June 30, 2024). Subsets of questions in the student survey will focus on describing aspects of the experience of students in their last year of postsecondary education, including student debt, education experiences, and preparation activities for those planning to teach at the preK through 12th grade level.

Previous submissions were designed to adequately justify the need for and overall practical utility of the full study, presenting the overarching plan for all phases of the data collection and providing as much detail about the measures to be used as is available at the time of this submission. As part of the completed field test, NCES published a notice in the **Federal Register** allowing first a 60- and then a 30-day public comment period. Field test materials, procedures, and results have informed this request for clearance for the full-scale study. For this full-scale study, NCES first published a notice in the **Federal Register** allowing an additional 30-day public comment period on the final details of the NPSAS:24 full-scale study Institution Contacting and List Collection, which was approved in September 2023 (OMB# 1850–0666 v.35). NCES is now submitting a separate clearance package covering the student data collection, including the student record data abstraction and student surveys, for an additional 30-day public comment period.

Dated: September 26, 2023.

Stephanie Valentine,

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

[FR Doc. 2023–21408 Filed 9–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[GDO Docket No. EA–503]

Application for Authorization To Export Electric Energy; CWP Energy, Inc.

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: CWP Energy, Inc. (the Applicant or CWP Energy) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before October 30, 2023.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Christina Gomer, (240) 474–2403, *Electricity.Exports@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: The United States Department of Energy (DOE) regulates electricity exports from the United States to foreign countries in accordance with section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)) and regulations thereunder (10 CFR 205.300 *et seq*.). Sections 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. 7151(b) and 7172(f)) transferred this regulatory authority, previously exercised by the now-defunct Federal Power Commission, to DOE.

Section 202(e) of the FPA provides that an entity which seeks to export electricity must obtain an order from DOE authorizing that export. (16 U.S.C. 824a(e)). On April 10, 2023, the authority to issue such orders was delegated to the DOE's Grid Deployment Office (GDO) by Delegation Order No. S1–DEL–S3–2023 and Redelegation Order No. S3–DEL–GD1–2023.

On January 3, 2017, DOE issued Order No. EA–429 authorizing CWP Energy to transmit electric energy from the United States to Mexico as a power marketer. On May 3, 2017, DOE issued Order No. EA–429–A to reflect CWP Energy's corporate name change and incorporated all other terms and conditions as originally described in Order No. EA–429. On June 29, 2023, CWP Energy filed an application with DOE (Application or App.) for renewal of its export authority for an additional five-year term. App. at 1. The Application noted that Order No. EA–429–A lapsed on January 3, 2022, and CWP Energy continued to engage in transactions during the lapsed period. *Id.* and n.1.

In Order No. EA–429, DOE indicated that, ''continuing to export after the expiration of [a valid] order [to export electricity], may result in a denial of authorization of export in the future and subject the exporter to sanctions and penalties under the FPA.'' Order No. EA–429 at 9. Because the Applicant's prior authorization in Order No. EA–429–A has long expired, DOE has determined that granting a renewal of such authorization would not be appropriate. Instead, DOE will treat CWP Energy's submission as an application for a new authorization.

In its Application, CWP Energy states it ''is a Canadian Corporation with its principal place of business in Montréal, Québec, Canada.'' App. at 3. The Applicant further states it ''is owned 89.9% by McGill-St. Laurent and 10.1% by Investissements AFA Inc. McGill-St. Laurent is owned by two individuals, Mr. Phillipe Boisclair, as a majority owner, and Mr. Christian L'Abbe, as a minority owner.'' *Id.* The Applicant further indicates that, ''Mr. Boisclair and Mr. L'Abbe do not have any ownership interest or involvement in any other company that is a traditional utility or that owns, operates, or controls any electric generation, transmission or distribution facilities, nor do they have any direct involvement with the energy industry other than through the ownership of CWP Energy and its affiliates.'' *Id.* In addition, ''Investissements AFA Inc. is owned by Mr. Alain Brisebois'' and he ''does not have any ownership interest or involvement in any other company that is a traditional utility or that owns, operates, or controls any electric generation, transmission or distribution facilities, nor does he have any direct involvement with the energy industry other than through his ownership, and in his capacity as President, of CWP Energy.'' *Id.* CWP Energy represents that it ''will purchase power to be exported from a variety of sources such as power marketers, independent power producers, or U.S. electric utilities and federal power marketing entities as those terms are defined in Sections 3(22) and 3(19) of the FPA.'' *Id.* at 5. CWP Energy also states that, ''[b]y definition, such power is surplus to the system of the generator and, therefore, the electric power that CWP Energy will export on either a firm or interruptible basis will not impair the sufficiency of the electric power supply within the U.S.'' *Id.*

The existing international transmission facilities to be utilized by the Applicant have been previously authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties. *Id.* at Exhibit C.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at *Electricity.Exports@hq.doe.gov*. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at *Electricity.Exports@hq.doe.gov* in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning CWP Energy's Application should be clearly marked with GDO Docket No. EA–503. Additional copies are to be provided directly to Ruta Kalvaitis Skučas and Chimera N. Thompson, K&L Gates LLP, 1601 K St. NW, Washington, DC 20006, *ruta.skucas@klgates.com*; and Alain Brisebois, CWP Energy, 407 McGill Street, Suite 315, Montreal, PQ, H2Y 2G3, *Alain@cwpenergy.com*.

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the United States electric power supply system.

Copies of this Application will be made available, upon request, on the program website at *https://www.energy.gov/gdo/pending-applications-0* or by emailing *Electricity.Exports@hq.doe.gov*.

Signing Authority: This document of the Department of Energy was signed on September 21, 2023, by Maria Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 26, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–21409 Filed 9–28–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Waiver Period for Water Quality Certification Applications

	Project No.
Central Rivers Power NH, LLC:	
J. Brodie Smith Hydroelectric Project	2287–053
Gorham Hydroelectric Project	2288–057
Great Lakes Hydro America, LLC:	
Shelburne Hydroelectric Project	2300–052
Upper Gorham Hydroelectric Project	2311–067
Cross Power Hydroelectric Project	2326–054
Cascade Hydroelectric Project	2327–047
Sawmill Hydroelectric Project	2422–058
Riverside Hydroelectric Projec	2423–031

On September 22, 2023, Central Rivers Power NH, LLC and Great Lakes Hydro America, LLC submitted to the Federal Energy Regulatory Commission (Commission) copies of its applications for Clean Water Act section 401(a)(1) water quality certifications filed with the New Hampshire Department of Environmental Services (New Hampshire DES), in conjunction with the above captioned projects. Pursuant to Section 401 of the Clean Water Act [1] and section 5.23(b) of the Commission's regulations,[2] a state certifying agency is deemed to have waived its certifying authority if it fails or refuses to act on a certification request within a reasonable period of time, which is one year after the date the certification request was received. Accordingly, we hereby notify New Hampshire DES of the following:

Date New Hampshire DES received the certification requests: September 22, 2023.

If New Hampshire DES fails or refuses to act on the water quality certification requests on or before September 22, 2024, 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: September 25, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–21507 Filed 9–28–23; 8:45 am]

BILLING CODE 6717–01–P

[1] 33 U.S.C. 1341(a)(1).

[2] 18 CFR 5.23(b) (2022).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10489–000]

City of River Falls Municipal Utilities; Notice of Authorization for Continued Project Operation

The license for the River Falls Hydroelectric Project No. 10489 was issued for a period ending August 31, 2023.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 10489 is issued to the City of River Falls Municipal Utilities for a period effective September 1, 2023, through August 31, 2024, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before August 31, 2024, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the City of River Falls Municipal Utilities is authorized to continue operation of the River Falls Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: September 25, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–21504 Filed 9–28–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–2915–000]

Chesapeake Solar Project, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Chesapeake Solar Project, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene, or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 16, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in

docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) 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.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov*.

Dated: September 25, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–21508 Filed 9–28–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6440–000]

Lakeport Hydroelectric One, LLC; Notice of Authorization for Continued Project Operation

The license for the Lakeport Hydroelectric Project No. 6440 was issued for a period ending August 31, 2023.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 6440 is issued to Lakeport Hydroelectric One, LLC for a period effective September 1, 2023, through August 31, 2024, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before August 31, 2024, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Lakeport Hydroelectric One, LLC is authorized to continue operation of the Lakeport Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: September 25, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–21506 Filed 9–28–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC23–134–000.

Applicants: Mt. Poso Cogeneration Company, LLC, Berry Corporation.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Mt. Poso Cogeneration Company, LLC, et al.

Filed Date: 9/22/23.

Accession Number: 20230922–5194.

Comment Date: 5 p.m. ET 10/13/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–290–005.

Applicants: Oakland Power Company LLC.

Description: Compliance filing: Compliance Amend. to RMR Agmt. to Implement Settlement Agmt. to be effective 1/1/2022.

Filed Date: 9/25/23.

Accession Number: 20230925–5129.

Comment Date: 5 p.m. ET 10/16/23.

Docket Numbers: ER23–574–002.

Applicants: Oakland Power Company LLC.

Description: Tariff Amendment: Amend. to RMR Agmt. for Recovery of Costs of CARB Compliance to be effective 12/8/2022.

Filed Date: 9/25/23.

Accession Number: 20230925–5082.

Comment Date: 5 p.m. ET 10/16/23.

Docket Numbers: ER23–2919–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 5463; Queue No. AB2–190 to be effective 11/22/2023.

Filed Date: 9/22/23.

Accession Number: 20230922–5151.

Comment Date: 5 p.m. ET 10/13/23.

Docket Numbers: ER23–2920–000.

Applicants: Duke Energy Florida, LLC.

Description: § 205(d) Rate Filing: DEF–SECI RS No. 424—Reimbursement Agreement to be effective 11/22/2023.

Filed Date: 9/22/23.

Accession Number: 20230922–5153.

Comment Date: 5 p.m. ET 10/13/23.

Docket Numbers: ER23–2921–000.

Applicants: Duke Energy Progress, LLC.

Description: Tariff Amendment: DEP-Edenton Solar RS No. 375 Cancellation to be effective 11/22/2023.

Filed Date: 9/22/23.
Accession Number: 20230922–5157.
Comment Date: 5 p.m. ET 10/13/23.
Docket Numbers: ER23–2922–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 7079; Queue No. AE1–106 to be effective 8/24/2023.
Filed Date: 9/25/23.
Accession Number: 20230925–5063.
Comment Date: 5 p.m. ET 10/16/23.
Docket Numbers: ER23–2923–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: ESM Const Agmt Klamath Decommissioning Rev 1 to be effective 11/25/2023.
Filed Date: 9/25/23.
Accession Number: 20230925–5064.
Comment Date: 5 p.m. ET 10/16/23.
Docket Numbers: ER23–2924–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 1373; Queue No. H23/W70/K28 (amend) to be effective 11/25/2023.
Filed Date: 9/25/23.
Accession Number: 20230925–5107.
Comment Date: 5 p.m. ET 10/16/23.
Docket Numbers: ER23–2925–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original NSA, Service Agreement No. 7106; Queue No. AE2–309 to be effective 11/25/2023.
Filed Date: 9/25/23.
Accession Number: 20230925–5079.
Comment Date: 5 p.m. ET 10/16/23.
Docket Numbers: ER23–2926–000.
Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2023–09–25_SA 4164 METC–DTE Electric E&P (J1914) to be effective 11/25/2023.
Filed Date: 9/25/23.
Accession Number: 20230925–5090.
Comment Date: 5 p.m. ET 10/16/23.
Docket Numbers: ER23–2927–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Attachment AE Concerning Multi-Day Reliability Assessment Design to be effective 12/31/9998.
Filed Date: 9/25/23.
Accession Number: 20230925–5117.
Comment Date: 5 p.m. ET 10/16/23.
Docket Numbers: ER23–2928–000.
Applicants: Pennsylvania Electric Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Pennsylvania Electric Company submits tariff filing per 35.13(a)(2)(iii: Penelec Amends 10 ECSAs (5573 5574 5577 5641 5647 5649 5651 5652 5653 5655) to be effective 12/31/9998.
Filed Date: 9/25/23.
Accession Number: 20230925–5122.
Comment Date: 5 p.m. ET 10/16/23.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES23–71–000.
Applicants: ALLETE, Inc.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of ALLETE, Inc.
Filed Date: 9/25/23.
Accession Number: 20230925–5084.
Comment Date: 5 p.m. ET 10/16/23.

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, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202)502–6595 or *OPP@ferc.gov.*

Dated: September 25, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–21503 Filed 9–28–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10102–000]

Watershed Ranch, LLC; Notice of Authorization for Continued Project Operation

The license for the Springer Hydro No. 1 Project No. 10102 was issued for a period ending August 31, 2023.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 10102 is issued to Watershed Ranch, LLC for a period effective September 1, 2023, through August 31, 2024, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before August 31, 2024, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Watershed Ranch, LLC is authorized to continue operation of the Springer Hydro No. 1 Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other

disposition under the FPA, whichever comes first.

Dated: September 25, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–21505 Filed 9–28–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Robert D. Willis Hydropower Project Rate Schedule

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has approved and placed into effect Rate Order No. SWPA–83, which provides a temporary extension of Southwestern's current Robert D. Willis Hydropower Project rate schedule (RDW–15) through September 30, 2024, unless superseded.

DATES: Extension of the rate schedule is effective October 1, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Fritha Ohlson, Senior Vice President, Chief Operating Officer, Office of Corporate Operations, (918) 595–6684, *fritha.ohlson@swpa.gov.*

SUPPLEMENTARY INFORMATION: Rate Order No. SWPA–83, as contained herein, has been approved and placed into effect by the Administrator, Southwestern, and provides for the temporary extension, through September 30, 2024, unless superseded, of the Robert D. Willis Hydropower Project Rate Schedule RDW–15, Wholesale Rates for Hydro Power and Energy.

United States of America

Department of Energy

Administrator, Southwestern Power Administration

In the matter of: Southwestern Power Administration, Robert D. Willis Hydropower Project Rate Schedule, Rate Order No. SWPA–83

Order Approving Extension of Rate Schedule on a Temporary Basis (9/25/2023)

Pursuant to Sections 301(b) and 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7151(b) and 7152(a), the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern), were transferred to and vested in the Secretary of Energy. By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to Southwestern's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1–DEL–S3–2023, effective April 10, 2023, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–SWPA1–2023, effective April 10, 2023, the Under Secretary for Infrastructure redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Southwestern Administrator.

Background

On December 17, 2015, in Rate Order No. SWPA–70, the Deputy Secretary of Energy placed into effect the current Robert D. Willis Hydropower Project (Robert D. Willis) rate schedule (RDW–15) on an interim basis for the period January 1, 2016 to September 30, 2019. FERC confirmed and approved RDW–15 on a final basis on June 15, 2016 for a period ending September 30, 2019. On September 22, 2019, in Rate Order No. SWPA–76, the Assistant Secretary for Electricity extended RDW–15 for two years, for the period of October 1, 2019 through September 30, 2021. On August 30, 2021, in Rate Order No. SWPA–79, the Administrator, Southwestern, extended RDW–15 for two years, for the period of October 1, 2021 through September 30, 2023.

Discussion

Southwestern's current rate schedule for the Robert D. Willis isolated rate system, RDW–15, is based on the 2015 Power Repayment Study (PRS). Each subsequent annual PRS through 2022 indicated the need for a revenue adjustment within a plus or minus five percent range of the current revenue estimate. It is Southwestern's practice for the Administrator to defer, on a case-by-case basis, revenue adjustments for isolated rate systems that are within plus or minus five percent of the revenue estimated from the current rate schedule. Therefore, the Administrator deferred revenue adjustments annually for Robert D. Willis through 2022. The 2023 PRS indicated a need for a revenue adjustment above five percent and therefore a new rate is needed. However, finalization of the 2023 PRS, development of a rate adjustment plan including a new rate schedule (RDW–23), and the associated procedures for public participation in accordance with 10 CFR part 903 will not be completed in time for the new rate schedule to be placed into effect prior to the September 30, 2023, expiration of the current rate schedule and thus temporary extension of the current rate schedule is necessary. Pursuant to 10 CFR 903.23(b) and Redelegation Order No. S3–DEL–SWPA1–2023, Southwestern's Administrator may extend existing rates on a temporary basis without advance notice or comment pending further action. In such a circumstance, the Administrator shall publish notice of said extension in the **Federal Register** and promptly advise FERC of the extension. The revenue collection associated with the extension of the current rate will be considered in the development of the new rate based on the 2023 PRS such that repayment obligations are met consistent with the provisions of U.S. Department of Energy (DOE) Order No. RA 6120.2.

Availability of Information

Information regarding the extension of the rate schedule is available for public review in the offices of Southwestern Power Administration, Williams Tower I, One West Third Street Suite 1500, Tulsa, Oklahoma 74103. The rate schedule is available on the Southwestern website at *www.energy.gov/swpa/rates-and-repayment.*

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby extend, effective October 1, 2023, Robert D. Willis *Rate Schedule RDW–15, Wholesale Rates for Hydro Power and Energy.* The rate schedule shall remain in effect on a temporary basis through September 30, 2024, unless superseded.

Signing Authority

This document of the Department of Energy was signed on September 25, 2023, by Mike Wech, Administrator for Southwestern Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been

authorized to sign and submit the document in electronic format for publication, as an official document of DOE. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 26, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–21453 Filed 9–28–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Rate Schedules

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has approved and placed into effect Rate Order No. SWPA–81, which provides a temporary extension of Southwestern's current Integrated System rate schedules (P–13B, NFTS–13A, and EE–13) through September 30, 2024, unless superseded.

DATES: Extension of the rate schedules is effective October 1, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Fritha Ohlson, Senior Vice President, Chief Operating Officer, Office of Corporate Operations, (918) 595–6684, *fritha.ohlson@swpa.gov*.

SUPPLEMENTARY INFORMATION: Rate Order No. SWPA–81, as contained herein, has been approved and placed into effect by the Administrator, Southwestern, and provides for the temporary extension, through September 30, 2024, unless superseded, of the Integrated System Rate Schedule P–13B, Wholesale Rates for Hydro Peaking Power; Rate Schedule NFTS–13A, Wholesale Rates for Non-Federal Transmission/Interconnection Facilities Service; and Rate Schedule EE–13, Wholesale Rates for Excess Energy.

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

ADMINISTRATOR, SOUTHWESTERN POWER ADMINISTRATION

In the matter of: Southwestern Power Administration Integrated System Rate Schedules

Rate Order No. SWPA–81

ORDER APPROVING EXTENSION OF RATE SCHEDULES ON A TEMPORARY BASIS

(9/25/2023)

Pursuant to Sections 301(b) and 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7151(b) and 7152(a), the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern), were transferred to and vested in the Secretary of Energy. By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to Southwestern's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1–DEL–S3–2023, effective April 10, 2023, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–SWPA1–2023, effective April 10, 2023, the Under Secretary for Infrastructure redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Southwestern Administrator.

BACKGROUND

On September 30, 2013, in Rate Order No. SWPA–66, the Deputy Secretary of Energy placed into effect Southwestern's Integrated System rate schedules (P–13, NFTS–13, and EE–13) on an interim basis for the period October 1, 2013 to September 30, 2017. FERC confirmed and approved Southwestern's interim Integrated System rates on a final basis on January 9, 2014 for a period ending September 30, 2017.

Southwestern re-designated Integrated System rate schedule ''NFTS–13'' as ''NFTS–13A'' with no revenue adjustment. In Rate Order No. SWPA–71, the Deputy Secretary of Energy placed into effect Southwestern's rate schedule NFTS–13A on an interim basis beginning January 1, 2017. FERC confirmed and approved NFTS–13A on a final basis on March 9, 2017.

On September 13, 2017, in Rate Order No. SWPA–72, the Deputy Secretary of Energy extended all of Southwestern's Integrated System rate schedules (P–13, NTFS–13A, and EE–13) for two years, for the period of October 1, 2017 through September 30, 2019.

Southwestern re-designated Integrated System rate schedule ''P–13'' as ''P–13A'' with no revenue adjustment to incorporate a new section regarding requirements for the peaking energy schedule submission time. In Rate Order No. SWPA–73, the Assistant Secretary for Electricity placed into effect Southwestern's rate schedule for P–13A on an interim basis beginning July 1, 2019. FERC confirmed and approved P–13A on a final basis on August 29, 2019.

On September 22, 2019, in Rate Order No. SWPA–74, the Assistant Secretary for Electricity extended all of Southwestern's Integrated System rate schedules (P–13A, NFTS–13A, EE–13) for two years, for the period of October 1, 2019 through September 30, 2021.

On August 30, 2021, in Rate Order No. SWPA–77, the Administrator, Southwestern, extended all of Southwestern's Integrated System rate schedules (P–13A, NFTS–13A, EE–13) for two years, for the period of October 1, 2021 through September 30, 2023.

Southwestern re-designated Integrated System rate schedule ''P–13A'' as ''P–13B'' with no revenue adjustment to update the peaking energy schedule submission time requirements. In Rate Order No. SWPA–80, the Administrator, Southwestern, placed into effect Southwestern's rate schedule for P–13B on an interim basis beginning July 15, 2023. The P–13B rate schedule has been submitted to FERC for confirmation and approval on a final basis.

DISCUSSION

Southwestern's current Integrated System rate schedules (P–13B, NFTS–13A, and EE–13) are based on its 2013 Power Repayment Study (PRS). Southwestern has conducted PRSs annually thereafter through 2023. Each PRS from 2014 through 2022 indicated a need for a revenue adjustment within a plus or minus two percent range of the revenue estimate based on the current rate schedules. It is Southwestern's practice for the Administrator to defer, on a case-by-case basis, revenue adjustments for the Integrated System within plus or minus two percent from the revenue estimate based on the current rate schedules. Thus, the Administrator has deferred revenue adjustments annually through 2022. The 2023 PRS indicated a need for a revenue adjustment above two percent and therefore Southwestern is working towards finalization of the 2023 PRS and development of a rate adjustment plan including design of a new set of

Integrated System rate schedules (P–23, NFTS–23, and EE–23). However, that effort and the associated procedures for public participation in accordance with 10 CFR part 903 will not be completed in time for the new rate schedules to be placed into effect prior to the September 30, 2023, expiration of the current rate schedules, and thus temporary extension of the current rate schedules is necessary. Pursuant to 10 CFR 903.23(b) and Redelegation Order No. S3–DEL–SWPA1–2023, Southwestern's Administrator may extend existing rates on a temporary basis without advance notice or comment pending further action. In such a circumstance, the Administrator shall publish notice of said extension in the **Federal Register** and promptly advise FERC of the extension. The revenue collection associated with the extension of the current rates will be considered in the development of the new rates based on the 2023 PRS such that repayment obligations are met consistent with the provisions of U.S. Department of Energy (DOE) Order No. RA 6120.2.

AVAILABILITY OF INFORMATION

Information regarding the extension of these rate schedules is available for public review in the offices of Southwestern Power Administration, Williams Tower I, One West Third Street Suite 1500, Tulsa, Oklahoma 74103. The rate schedules are available on the Southwestern website at *www.energy.gov/swpa/rates-and-repayment.*

ORDER

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby extend, effective October 1, 2023, the Integrated System *Rate Schedule P–13B, Wholesale Rates for Hydro Peaking Power; Rate Schedule NFTS–13A, Wholesale Rates for Non-Federal Transmission/ Interconnection Facilities Service;* and *Rate Schedule EE–13, Wholesale Rates for Excess Energy.* The rate schedules shall remain in effect on a temporary basis through September 30, 2024, unless superseded.

Signing Authority

This document of the Department of Energy was signed on September 25, 2023, by Mike Wech, Administrator for Southwestern Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DOE. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 26, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–21449 Filed 9–28–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Sam Rayburn Dam Rate Schedule

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Administrator, Southwestern Power Administration (Southwestern), has approved and placed into effect Rate Order No. SWPA–82, which provides a temporary extension of Southwestern's current Sam Rayburn Dam rate schedule (SRD–15) through September 30, 2024, unless superseded.

DATES: Extension of the rate schedule is effective October 1, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Fritha Ohlson, Senior Vice President, Chief Operating Officer, Office of Corporate Operations, (918) 595–6684, *fritha.ohlson@swpa.gov.*

SUPPLEMENTARY INFORMATION: Rate Order No. SWPA–82, as contained herein, has been approved and placed into effect by the Administrator, Southwestern, and provides for the temporary extension, through September 30, 2024, unless superseded, of the Sam Rayburn Dam Rate Schedule SRD–15, Wholesale Rates for Hydro Power and Energy.

United States of America

Department of Energy

Administrator, Southwestern Power Administration

In the matter of: Southwestern Power Administration; Sam Rayburn Dam Rate Schedule, Rate Order No. SWPA–82

Order Approving Extension of Rate Schedule on a Temporary Basis (9/25/2023)

Pursuant to Sections 301(b) and 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7151(b) and 7152(a), the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern), were transferred to and vested in the Secretary of Energy. By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to Southwestern's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1–DEL–S3–2023, effective April 10, 2023, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–SWPA1–2023, effective April 10, 2023, the Under Secretary for Infrastructure redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Southwestern Administrator.

Background

On December 17, 2015, in Rate Order No. SWPA–69, the Deputy Secretary of Energy placed into effect the current Sam Rayburn Dam rate schedule (SRD–15) on an interim basis for the period January 1, 2016 to September 30, 2019. FERC confirmed and approved SRD–15 on a final basis on June 30, 2016 for a period ending September 30, 2019. On September 22, 2019, in Rate Order No. SWPA–75, the Assistant Secretary for Electricity extended SRD–15 for two years, for the period of October 1, 2019 through September 30, 2021. On August 30, 2021, in Rate Order No. SWPA–78, the Administrator, Southwestern, extended SRD–15 for two years, for the period of October 1, 2021 through September 30, 2023.

Discussion

Southwestern's current rate schedule for the Sam Rayburn Dam isolated rate system, SRD–15, is based on the 2015 Power Repayment Study (PRS). Each subsequent annual PRS through 2022 indicated the need for a revenue adjustment within a plus or minus five percent range of the current revenue estimate. It is Southwestern's practice for the Administrator to defer, on a case-by-case basis, revenue adjustments for isolated rate systems that are within

plus or minus five percent of the revenue estimated from the current rate schedule. Therefore, the Administrator deferred revenue adjustments annually for Sam Rayburn Dam through 2022. The 2023 PRS indicated a need for a revenue adjustment above five percent and therefore a new rate is needed. However, finalization of the 2023 PRS, development of a rate adjustment plan including a new rate schedule (SRD–23), and the associated procedures for public participation in accordance with 10 CFR part 903 will not be completed in time for the new rate schedule to be placed into effect prior to the September 30, 2023, expiration of the current rate schedule and thus temporary extension of the current rate schedule is necessary. Pursuant to 10 CFR 903.23(b) and Redelegation Order No. S3–DEL–SWPA1–2023, Southwestern's Administrator may extend existing rates on a temporary basis without advance notice or comment pending further action. In such a circumstance, the Administrator shall publish notice of said extension in the **Federal Register** and promptly advise FERC of the extension. The revenue collection associated with the extension of the current rate will be considered in the development of the new rate based on the 2023 PRS such that repayment obligations are met consistent with the provisions of U.S. Department of Energy (DOE) Order No. RA 6120.2.

Availability of Information

Information regarding the extension of the rate schedule is available for public review in the offices of Southwestern Power Administration, Williams Tower I, One West Third Street Suite 1500, Tulsa, Oklahoma 74103. The rate schedule is available on the Southwestern website at *www.energy.gov/swpa/rates-and-repayment.*

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby extend, effective October 1, 2023, Sam Rayburn Dam Rate Schedule *SRD–15, Wholesale Rates for Hydro Power and Energy.* The rate schedule shall remain in effect on a temporary basis through September 30, 2024, unless superseded.

Signing Authority

This document of the Department of Energy was signed on September 25, 2023, by Mike Wech, Administrator for Southwestern Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DOE. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 26, 2023.

Treena V. Garrett,

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

[FR Doc. 2023–21451 Filed 9–28–23; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–088]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed September 18, 2023 10 a.m. EST Through September 25, 2023 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20230124, Final, FHWA, LA, I–10 Calcasieu River Bridge Improvements, Review Period Ends: 10/30/2023, Contact: Charles Harkless 225–757–7621.

EIS No. 20230125, Draft, UDOT, UT, I–15 Farmington to Salt Lake City, Comment Period Ends: 11/13/2023, Contact: Brandon Weston 801–965–4603.

EIS No. 20230126, Draft, BLM, CA, Northwest California Resource Management Plan (NCIP), Comment Period Ends: 12/28/2023, Contact: Victoria Slaughter 707–825–2315.

EIS No. 20230127, Draft, NPS, USFWS, WA, Draft Grizzly Bear Restoration Plan—Environmental Impact Statement North Cascades Ecosystem, Comment Period Ends: 11/13/2023, Contact: Denise Shultz 360–854–7200.

EIS No. 20230128, Final, BOEM, VA, Coastal Virginia Offshore Wind Commercial, Review Period Ends: 10/30/2023, Contact: Jessica Stromberg 703–787–1730.

EIS No. 20230129, Final Supplement, USPS, DC, Next Generation Delivery Vehicle Acquisitions, Review Period Ends: 10/30/2023, Contact: Davon Collins 202–268–4570.

EIS No. 20230130, Final, DOE, NV, ADOPTION—Thacker Pass Lithium Mine Project, Review Period Ends: 10/30/2023, Contact: Anna Eskridge 240–743–1304.

The Department of Energy (DOE) has adopted the Bureau of Land Management's Final EIS No. 20200247 filed 11/25/2020 with the Environmental Protection Agency. The DOE was not a cooperating agency on this project. Therefore, republication of the document is necessary under Section 1506.3(b)(1) of the CEQ regulations.

Amended Notice

EIS No. 20230096, Draft, NHTSA, REG, Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks, Model Years 2027–2032, and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans, Model Years 2030–2035, Comment Period Ends: 10/16/2023, Contact: Hannah Fish 202–366–1099.

Revision to FR Notice Published 08/04/2023; Extending the Comment Period from 10/04/2023 to 10/16/2023.

Dated: September 25, 2023.

Nancy Abrams,

Associate Director, Office of Federal Activities.

[FR Doc. 2023–21435 Filed 9–28–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2023–0416; FRL–11354–01–OLEM]

Agency Information Collection Activities; Proposed Information Collection Request; Comment Request; Materials Management Information Collection Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Materials Management Information Collection Request (EPA ICR Number 2789.01, OMB Control Number 2050–

NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a request for approval of a new collection. This notice allows for 60 days for public comments.

DATES: Comments must be submitted on or before November 28, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OLEM–2023–0416, 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.

FOR FURTHER INFORMATION CONTACT: Hannah Blaufuss, Resource Conservation and Sustainability Division, Office of Resource Conservation and Recovery, 5306P, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–5614; email address: *Blaufuss.hannah@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a request for approval of a new collection. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

This notice allows 60 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.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate forms of information technology. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: EPA's Office of Land and Emergency Management, Office of Resource Conservation and Recovery (ORCR) is charged with, among other responsibilities, ensuring efficient and equitable non-hazardous waste management. In this capacity, timely and consistent information on waste/materials generation, disposition and recovery is essential to ensure that programs, policies, and grant monies are properly targeted. Several statutes mandate EPA to implement grants and programs that will be supported by this Information Collection Request (ICR). Those statutes include the Save our Seas 2.0 Act (SOS 2.0) (Pub. L. 116–224), the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58) and the Resource Conservation and Recovery Act (RCRA) 42 U.S.C. 6983. EPA is mandated to meet certain reporting requirements as part of the grant programs established in SOS 2.0 and IIJA. The creation of two new grant programs in ORCR requires efficiency to effectively manage the new work. Under this ICR, a new knowledge management system will be developed to manage the post-award grant reporting that is mandatory for grant recipients' reporting requirements under SOS 2.0 and IIJA. This system will assist staff in organizing quarterly reports to measure impact and report to Congress. Information collected under this ICR also will illustrate progress toward the National Recycling Goal to increase the nation's recycling rate to 50% by 2030 and the U.S. 2030 Food Loss and Waste Reduction Goal to cut food loss and waste in half by the year 2030. This ICR encompasses EPA activities under the National Recycling Strategy to characterize materials management infrastructure, standardize measurement and increase data collection, and update the Facts and Figures on Materials, Wastes and Recycling Report. This ICR also will support activities associated with future strategies EPA may release as part of the series on building a circular economy for all, including the National Strategy to Prevent Plastic Pollution. To track progress on the implementation of these strategies and goals, EPA requires current, accurate, and evolving data on national waste management pathways, including recycling participation and food loss and waste generation rates. Without data collection, tracking progress relies upon predictive modelling that may be insufficiently accurate and precise when definitiveness is key. Lastly, this ICR also will support working with EPA's Office of Research and Development, and potentially the National Center for Environmental Economics, to integrate Waste Input-Output modeling and the U.S. Environmentally-Extended Input-Output model as the basis for future Facts and Figures data estimates.

Form numbers: None.

Respondents/affected entities: To be determined.

Respondent's obligation to respond: voluntary for general surveys and mandatory for grant recipients' per reporting requirements under SOS 2.0 and IIJA.

Estimated number of respondents: To be determined.

Frequency of response: To be determined.

Total estimated burden: To be determined.

Total estimated cost: To be determined.

Dated: September 24, 2023.

Carolyn Hoskinson,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2023–21326 Filed 9–28–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2023–0265; FRL–11109–01–OCSPP]

Tris(2-chloroethyl) Phosphate (TCEP); Draft Risk Evaluation under the Toxic Substances Control Act (TSCA); Letter Peer Review; Request for Nominations of Expert Reviewers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is seeking public nominations of scientific and technical

experts to review the draft Risk Evaluation for Tris(2-chloroethyl) Phosphate (TCEP) conducted under the Toxic Substances Control Act (TSCA). The draft risk evaluation will be released for public review and comment in December 2023 through a separate **Federal Register** document and subsequently submitted for letter peer review by the expert reviewers.

DATES: Nominations should be submitted in time to arrive no later October 30, 2023.

ADDRESSES: Submit your nominations to the Peer Review Leader listed under **FOR FURTHER INFORMATION CONTACT**. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information whose public disclosure is restricted by statute. If your nomination may contain any such information, please contact the Peer Review Leader to obtain special instructions before submitting that information.

FOR FURTHER INFORMATION CONTACT: Contact the Peer Review Leader, Dr. Alaa Kamel, Mission Support Division (7602M), Office of Program Support, Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency; telephone number: (202) 564–5336; email address: *kamel.alaa@epa.gov* or call the main office: (202) 564–8450.

SUPPLEMENTARY INFORMATION:

I. General Information

A. What action is the Agency taking?

The Agency is seeking public nominations of scientific and technical experts that the EPA can consider for service as peer reviewers for the review of the ''2023 Draft Risk Evaluation for Tris(2-chloroethyl) Phosphate (TCEP).'' EPA will be soliciting comments from the reviewers on the approach and methodologies utilized in the draft 2023 TCEP risk evaluation.

This document provides instructions for submitting nominations for EPA to consider for reviewers. EPA will publish a separate document in the **Federal Register** in December 2023 to announce the availability of the draft risk evaluation and solicit public comments.

B. What is the Agency's authority for taking this action?

TSCA section 6(b) requires that EPA conduct risk evaluations on existing chemical substances and identifies the minimum components EPA must include in all chemical substance risk evaluations (15 U.S.C. 2605(b)). The risk evaluation must not consider costs or other non-risk factors (15 U.S.C. 2605(b)(4)(F)(iii)). The specific risk evaluation process is set out in 40 CFR part 702 and summarized on EPA's website at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluations-existing-chemicals-under-tsca.*

C. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to those involved in the manufacture, processing, distribution, and disposal of chemical substances and mixtures, and/or those interested in the assessment of risks involving chemical substances regulated under TSCA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

II. Nominations for Peer Reviewers

A. Why is EPA seeking nominations for peer reviewers?

As part of a broader process for developing a pool of candidates for peer reviews, EPA is asking the public and stakeholder communities for nominations of scientific and technical experts that EPA can consider as prospective candidates to serve as peer reviewers. Any interested person or organization may nominate qualified individuals for consideration as prospective candidates for this review by following the instructions provided in this document. Individuals may also self-nominate.

Those who are selected from the pool of prospective candidates will be asked to review the draft risk evaluation for TCEP and to help finalize the Letter Review report.

B. What expertise is sought for this peer review?

Individuals nominated for this peer review, should have expertise in one or more of the following areas: environmental fate assessment; environmental hazard assessment; human health toxicology with experience in cancer mode of action, reproductive toxicology, neurotoxicology, and renal toxicology; dose-response modeling; physiologically based pharmacokinetic (PBPK) modeling; and human or environmental exposure assessment, especially for susceptible life stages and subpopulations to environmental contaminants, and experience with particle versus gaseous partitioning and air deposition of semi-volatile organic compounds (SVOCs). Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this review.

C. How do I make a nomination?

By the deadline indicated under **DATES**, submit your nomination to the Peer Review Leader listed under **FOR FURTHER INFORMATION CONTACT**. Each nomination should include the following: Contact information for the person making the nomination; name, affiliation, and contact information for the nominee; and the disciplinary and specific areas of expertise of the nominee.

D. Will ad hoc reviewers be subjected to an ethics review?

Peer reviewers are subject to the provisions of the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, conflict of interest statutes in Title 18 of the United States Code and related regulations. In anticipation of this requirement, prospective candidates will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and where applicable, sources of research support. EPA will evaluate the candidates' financial disclosure forms to assess whether there are financial conflicts of interest, appearance of a loss of impartiality, or any prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service.

E. How will EPA select peer reviewers?

The selection of scientists to serve as peer reviewers is based on the expertise needed to address the Agency's charge to the reviewers. No interested scientists shall be ineligible to serve by reason of their membership on any advisory committee to a federal department or agency or their employment by a federal department or agency, except EPA. Other factors considered during the selection process include availability of the prospective candidate to fully participate in the Letter Review, absence of any conflicts of interest or appearance of loss of impartiality, independence with respect to the matters under review, and lack of bias. Although financial conflicts of interest, the appearance of loss of impartiality, lack of independence, and bias may result in non-selection, the absence of such concerns does not assure that a candidate will be selected to serve as a peer reviewer.

Numerous qualified candidates are often identified for the review.

Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives across reviewers. The Agency will consider all nominations of prospective candidates for service as peer reviewers that are received on or before the date listed in the **DATES** section of this document. However, the final selection of peer reviewers is a discretionary function of the Agency. At this time, EPA anticipates selecting 10–12 reviewers in the review of the designated topic.

EPA plans to make a list of candidates under consideration as prospective peer reviewers for this review available for public comment by late fall of 2023. The list will be available in the docket at *https://www.regulations.gov* (docket ID number EPA–HQ–OPPT–2023–0265).

III. Letter Review

A. What is the purpose of this Letter Review?

The focus of this Letter Review is to review the approach and methodologies utilized in the ''2023 Draft Risk Evaluation for Tris(2-chloroethyl) Phosphate (TCEP).'' Feedback from this review will be considered in the development of the final TCEP risk evaluation.

EPA intends to announce in December 2023, in the **Federal Register**, the availability of and solicit public comment on the draft risk evaluation, at which time EPA will provide instructions for submitting public comments for the Agency's and Letter Peer Reviewers' consideration.

B. Why did EPA develop these documents?

TCEP is a High-Priority substance undergoing the TSCA risk evaluation process after passage of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, which amended TSCA.

TCEP has been primarily used in paint and coating manufacturing, and in polymers used in aerospace equipment and products. In the past it has also been used in commercial and consumer products, including fabric and textile, products, foam seating, and construction materials. TCEP may also be imported in articles intended for consumer use.

In August 2020, EPA published a final scope document for 20 High-Priority substances, including TCEP, outlining the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations the Agency expects to consider in its risk evaluation.

EPA is submitting the ''2023 Draft Risk Evaluation for Tris(2-chloroethyl) Phosphate (TCEP)'' and associated supporting documents for Letter Peer Review. The Letter Peer Review will include review of the analysis of physical chemical properties, the fate of TCEP in the environment, releases of TCEP to the environment, environmental hazard and risk characterization for terrestrial and aquatic species, and human health hazard and risk characterization for workers, consumers, and the general population. Specifically, EPA is seeking comment on the following issues:

- The list of considerations EPA used to arrive at the human health hazard confidence levels and the specific confidence levels chosen for individual human health hazard outcome (neurotoxicity, reproductive/developmental effects, kidney effects, and cancer) in the TCEP risk evaluation.
- Whether the approach used to estimate anaerobic degradation in the absence of data is appropriate for assessing anaerobic degradation in sediment.
- Use of the model, Web-based Interspecies Correlation Estimation (Web-ICE), to predict acute toxicity hazard values for aquatic species not represented in the available studies. This is the first time EPA has used Web-ICE in a TSCA risk evaluation. These predictions were used with available empirical data to create a Species Sensitivity Distribution (SSD). The SSD was used to calculate a hazardous concentration for 5% of species (HC_{05}). EPA is also using a data-driven way of accounting for uncertainty for environmental hazard and is soliciting comment on its characterization of this uncertainty, specifically its use of the lower bound of the 95% confidence interval of the hazardous HC_{05}.
- Human health hazard benchmark dose modeling of animal toxicity data for TCEP.
- The list of considerations EPA used to arrive at the human health hazard confidence levels and the specific confidence levels chosen for individual human health hazard outcomes (neurotoxicity, reproductive/developmental effects, kidney effects, and cancer) to quantitatively evaluate risk from TCEP.
- Use of several approaches for estimating exposures to humans and environmental receptors: (1) The use of Verner 2008 Multi-compartment model, which was used to assess TCEP exposure to infants through human milk for the first time in a TSCA risk evaluation; (2) the use of Verner 2008 Multi-compartment model and associated uncertainties in extrapolating from the inhalation to oral routes of exposure; (3) the use of AERMOD model to estimate air deposition of TCEP. EPA has used AERMOD in previous TSCA risk evaluations; however, its use in estimating air deposition is novel for TSCA risk evaluations.
- Approach for modeling drinking water contamination from wells near municipal solid waste landfills, which is a new approach for TSCA risk evaluations.

C. How can I access the documents submitted for review to the SACC?

EPA is planning to release the ''2023 Draft Risk Evaluation for Tris(2-chloroethyl) Phosphate (TCEP)'' and all background documents, related supporting materials, and draft charge questions in December 2023. At that time, EPA will publish a separate document in the **Federal Register** to announce the availability of and solicit public comment on the draft risk evaluation and provide instructions for submitting written comments. These materials will be available in the docket at *https://www.regulations.gov* (docket ID number EPA–HQ–OPPT–2023–0265) and through the TSCA Scientific Peer Review Committees website. In addition, as additional background materials become available, EPA will include those additional background documents (*e.g.,* reviewers participating in this letter review) in the docket and through the website.

Authority: 15 U.S.C. 2625(h).

Dated: September 26, 2023.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2023–21544 Filed 9–28–23; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Thursday, October 12, 2023.

PLACE: You may observe the open portions of this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or virtually. If you would like to observe, at least 24 hours in advance, visit *FCA.gov,* select ''Newsroom,'' then select ''Events.'' From there, access the linked ''Instructions for board meeting visitors'' and complete the described registration process.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The following matters will be considered:

PORTIONS OPEN TO THE PUBLIC:

- Approval of Minutes for September 14, 2023
- Young, Beginning, and Small Farmers and Ranchers Final Rule

PORTIONS CLOSED TO THE PUBLIC:

- Office of Secondary Market Oversight Periodic Report [1]

CONTACT PERSON FOR MORE INFORMATION: If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703–883–4009. TTY: 703–883–4056.

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2023–21601 Filed 9–27–23; 11:15 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 174730]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces a new computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the U.S. Department of Housing and Urban Development (HUD). The purpose of this matching program is to verify the eligibility of applicants to and subscribers of Lifeline, and the Affordable Connectivity Program (ACP), both of which are administered by USAC under the direction of the FCC. More information about these programs is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before October 30, 2023. This computer matching program will commence on October 30, 2023, and will conclude 18 months after the effective date.

ADDRESSES: Send comments to Elliot S. Tarloff, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Elliot S. Tarloff at 202–418–0886 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Lifeline program provides support for discounted broadband and voice services to low-income consumers. Lifeline is administered by the Universal Service Administrative Company (USAC) under FCC direction. Consumers qualify for Lifeline through proof of income or participation in a qualifying program, such as Medicaid, the Supplemental Nutritional Assistance Program (SNAP), Federal Public Housing Assistance, Supplemental Security Income (SSI), Veterans and Survivors Pension Benefit, or various Tribal-specific federal assistance programs.

In the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182, 2129–36 (2020), Congress created the Emergency Broadband Benefit Program, and directed use of the National Verifier to determine eligibility based on various criteria, including the qualifications for Lifeline (Medicaid, SNAP, etc.). EBBP provided $3.2 billion in monthly consumer discounts for broadband service and one-time provider reimbursement for a connected device (laptop, desktop computer or tablet). In the Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429, 1238–44 (2021) (codified at 47 U.S.C. 1751–52), Congress modified and extended EBBP, provided an additional $14.2 billion, and renamed it the Affordable Connectivity Program (ACP). A household may qualify for the ACP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016, (81 FR 33026, May 24, 2016) (*2016 Lifeline Modernization Order*), the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for ACP. The purpose of this matching program is to verify the eligibility of Lifeline and ACP applicants and subscribers by determining whether they receive Federal Public Housing Assistance benefits administered by the U.S. Department of Housing and Urban Development.

Participating Agencies

U.S. Department of Housing and Urban Development; Federal Communications Commission.

Authority for Conducting the Matching Program

The authority to conduct the matching program for the FCC's ACP is 47 U.S.C. 1752(a)–(b). The authority to conduct the matching program for the FCC's Lifeline program is 47 U.S.C. 254(a)–(c), (j).

Purpose(s)

The purpose of this new matching agreement is to verify the eligibility of applicants and subscribers to Lifeline, as well as to ACP and other Federal programs that use qualification for Lifeline as an eligibility criterion. This new agreement will permit eligibility verification for the Lifeline program and ACP by checking an applicant's/subscriber's participation in Federal Public Housing Assistance. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for ACP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for Lifeline and/or ACP benefits; are currently receiving Lifeline and/or ACP benefits; are individuals who enable another individual in their household to qualify for Lifeline and/or ACP benefits; are minors whose status qualifies a parent or guardian for Lifeline and/or ACP benefits; or are individuals who have received Lifeline and/or ACP benefits.

Categories of Records

The categories of records involved in the matching program include, but are not limited to, the last four digits of the applicant's Social Security Number, date of birth, state of residence, and first and last name. The National Verifier will transfer these data elements to the U.S. Department of Housing and Urban Development, which will respond either ''yes'' or ''no'' that the individual is enrolled in a qualifying assistance program: Federal Public Housing Assistance administered by the U.S. Department of Housing and Urban Development.

[1] Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

System(s) of Records

The HUD records shared as part of this CMA reside within the following:

(1) HUD's Tenant Rental Assistance Certification System (TRACS) system of records that HUD has designated as HUD/HOU–11, published in the **Federal Register** on July 14, 2023 (88 FR 45234). Routine Use No. 8 supports HUD's disclosure under this Agreement.

(2) HUD's Inventory Management System/Public Housing Information Center (IMS/PIC) system of records that HUD has designated as HUD/PIH.01, published in the **Federal Register** on March 21, 2023 (88 FR 17005) and modifying the notice published on March 25, 2019 (84 FR 11117). Routine Use No. 14 supports HUD's disclosures under this Agreement.

The FCC SORNs that support this matching program are: (1) ''FCC/WCB–1,'' Lifeline, which was published in the **Federal Register** at 86 FR 11526 (Feb. 25, 2021); and (2) ''FCC/WCB–3,'' Affordable Connectivity Program, which was published in the **Federal Register** at 86 FR 71494 (Dec. 16, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2023–21295 Filed 9–28–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0249, OMB 3060–0501, OMB 3060–0573, OMB 3060–0888 and 3060–1254; FR ID 173969]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before October 30, 2023.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0249.

Title: Sections 74.781, 74.1281 and 78.69, Station Records.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions; State, Federal or Tribal governments.

Number of Respondents and Responses: 14,052 respondents; 19,077 responses.

Estimated Time per Response: 0.375 hour–1 hour.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 12,751 hours.

Total Annual Cost: $6,030,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in this collection are as follows:

47 CFR 74.781 information collection requirements include the following: (a) The licensee of a low power TV, TV translator, or TV booster station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this Chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light: (1) The nature of such extinguishment or improper functioning. (2) The date and time the extinguishment or improper operation was observed or otherwise noted. (3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable

place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.765(c) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

47 CFR 74.1281 information collection requirements include the following: (a) The licensee of a station authorized under this Subpart shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment of improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.1265(b) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

47 CFR 78.69 requires each licensee of a CARS station shall maintain records showing the following: (a) For all attended or remotely controlled stations, the date and time of the beginning and end of each period of transmission of each channel;

(b) For all stations, the date and time of any unscheduled interruptions to the transmissions of the station, the duration of such interruptions, and the causes thereof;

(c) For all stations, the results and dates of the frequency measurements made pursuant to § 78.113 and the name of the person or persons making the measurements;

(d) For all stations, when service or maintenance duties are performed, which may affect a station's proper operation, the responsible operator shall sign and date an entry in the station's records, giving:

(1) Pertinent details of all transmitter adjustments performed by the operator or under the operator's supervision.

(e) When a station in this service has an antenna structure which is required to be illuminated, appropriate entries shall be made as follows:

(1) The time the tower lights are turned on and off each day, if manually controlled.

(2) The time the daily check of proper operation of the tower lights was made, if an automatic alarm system is not employed.

(3) In the event of any observed or otherwise known failure of a tower light:

(i) Nature of such failure.

(ii) Date and time the failure was observed or otherwise noted.

(iii) Date, time, and nature of the adjustments, repairs, or replacements made.

(iv) Identification of Flight Service Station (Federal Aviation Administration) notified of the failure of any code or rotating beacon light not corrected within 30 minutes, and the date and time such notice was given.

(v) Date and time notice was given to the Flight Service Station (Federal Aviation Administration) that the required illumination was resumed.

(4) Upon completion of the 3-month periodic inspection required by § 78.63(c):

(i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators, and alarm systems.

(ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements, or repairs were made.

(f) For all stations, station record entries shall be made in an orderly and legible manner by the person or persons competent to do so, having actual knowledge of the facts required, who shall sign the station record when starting duty and again when going off duty.

(g) For all stations, no station record or portion thereof shall be erased, obliterated, or willfully destroyed within the period of retention required by rule. Any necessary correction may be made only by the person who made the original entry who shall strike out the erroneous portion, initial the correction made, and show the date the correction was made.

(h) For all stations, station records shall be retained for a period of not less than 2 years. The Commission reserves the right to order retention of station records for a longer period of time. In cases where the licensee or permittee has notice of any claim or complaint, the station record shall be retained until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

OMB Control Number: 3060–0501.

Title: Section 73.1942 Candidates Rates; Section 76.206 Candidate Rates; Section 76.1611, Political Cable Rates and Classes of Time.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 17,561 respondents; 403,610 responses.

Estimated Time per Response: 0.5 hours to 20 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Semi-annual requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 315 of the Communications Act of 1934, as amended.

Total Annual Burden: 927,269 hours.

Total Annual Cost: No cost.

Needs and Uses: Section 315 of the Communications Act directs broadcast stations and cable operators to charge political candidates the ''lowest unit charge of the station'' for the same class and amount of time for the same period, during the 45 days preceding a primary or runoff election and the 60 days preceding a general or special election.

The information collection requirements contained in 47 CFR 73.1942 require broadcast licensees and the requirements contained in 47 CFR 76.206 require cable television systems to disclose any station practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time (immediately preemptible, preemptible with notice, fixed, fire sale, and make good). These rule sections also require licensees and

cable TV systems to calculate the lowest unit charge. Broadcast stations and cable systems are also required to review their advertising records throughout the election period to determine whether compliance with these rule sections require that candidates receive rebates or credits.

The information collection requirements contained in 47 CFR 76.1611 require cable systems to disclose to candidates information about rates, terms, conditions and all value-enhancing discount privileges offered to commercial advertisers.

OMB Control Number: 3060–0573.

Title: Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise, FCC Form 394.

Form Number: FCC Form 394.

Type of Review: Extension of a currently approved collection.

Respondents: Business of other for-profit entities; State, local or Tribal government.

Number of Respondents and Responses: 2,000 respondents; 1,000 responses.

Estimated Time per Response: 1–5 hours.

Frequency of Response: Third Party Disclosure Requirement.

Total Annual Burden: 7,000 hours.

Total Annual Costs: $750,000.

Needs and Uses: FCC Form 394 is a standardized form that is completed by cable operators in connection with the assignment and transfer of control of cable television systems. On July 23, 1993, the Commission released a Report and Order and Further Notice of Proposed Rulemaking in MM Docket No. 92–264, FCC 93–332, Implementation of Sections 11 and 13 of the Cable Television Consumer Protection and Competition Act of 1992, Horizontal and Vertical Ownership Limits, Cross-Ownership Limitations and Anti-Trafficking Provisions. Among other things, this Report and Order established procedures for use of the FCC Form 394.

OMB Control Number: 3060–0888.

Title: Section 1.221, Notice of hearing; appearances; Section 1.229 Motions to enlarge, change, or delete issues; Section 1.248 Prehearing conferences; hearing conferences; Section 76.7, Petition Procedures; Section 76.9, Confidentiality of Proprietary Information; Section 76.61, Dispute Concerning Carriage; Section 76.914, Revocation of Certification; Section 76.1001, Unfair Practices; Section 76.1003, Program Access Proceedings; Section 76.1302, Carriage Agreement Proceedings; Section 76.1513, Open Video Dispute Resolution.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 684 respondents; 684 responses.

Estimated Time per Response: 6.4 to 95.4 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 4(i), 4(j) 303(r), 338, 340, 614, 615, 616, 623, 628, and 653 of the Communications Act of 1934, as amended.

Total Annual Burden: 34,816 hours.

Total Annual Cost: $3,775,680.

Needs and Uses: Commission rules specify pleading and other procedural requirements for parties filing petitions or complaints under Part 76 of the Commission's rules, including petitions for special relief, cable carriage complaints, program access complaints, and program carriage complaints.

47 CFR 1.221(f) requires that, in a program carriage complaint proceeding filed pursuant to § 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, each party, in person or by attorney, shall file a written appearance within five calendar days after the party informs the Chief Administrative Law Judge that it elects not to pursue alternative dispute resolution pursuant to § 76.7(g)(2) or, if the parties have mutually elected to pursue alternative dispute resolution pursuant to § 76.7(g)(2), within five calendar days after the parties inform the Chief Administrative Law Judge that they have failed to resolve their dispute through alternative dispute resolution. The written appearance shall state that the party will appear on the date fixed for hearing and present evidence on the issues specified in the hearing designation order.

47 CFR 1.229(b)(1) requires that, in a program carriage complaint proceeding filed pursuant to § 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, a motion to enlarge, change, or delete issues shall be filed within 15 calendar days after the deadline for submitting written appearances pursuant to § 1.221(h), except that persons not named as parties to the proceeding in the designation order may file such motions with their petitions to intervene up to 30 days after publication of the full text or a summary of the designation order in the **Federal Register**.

47 CFR 1.229(b)(2) provides that any person desiring to file a motion to modify the issues after the expiration of periods specified in paragraphs (a) and (b)(1) of § 1.229, shall set forth the reason why it was not possible to file the motion within the prescribed period.

47 CFR 1.248(a) provides that presiding officer may direct the parties or their attorneys to appear at a specified time and place for a status conference during the course of a hearing proceeding, or to submit suggestions in writing, for the purpose of considering, among other things, the matters specified in § 1.248(c). Any party may request a status conference at any time after release of the order designating a matter for hearing. During a status conference, the presiding officer may issue rulings regarding matters relevant to the conduct of the hearing proceeding including procedural matters, discovery, and the submission of briefs or evidentiary materials.

47 CFR 1.248(b) provides that the presiding officer shall schedule an initial status conference promptly after written appearances have been submitted under § 1.91 or § 1.221. At or promptly after the initial status conference, the presiding officer shall adopt a schedule to govern the hearing proceeding. If the Commission designated a matter for hearing on a written record under §§ 1.370 through 1.376, the scheduling order shall include a deadline for filing a motion to request an oral hearing in accordance with § 1.376. If the Commission did not designate the matter for hearing on a written record, the scheduling order shall include a deadline for filing a motion to conduct the hearing on a written record.

47 CFR 76.7. Pleadings seeking to initiate FCC action must adhere to the requirements of Section 76.6 (general pleading requirements) and Section 76.7 (initiating pleading requirements). Section 76.7 is used for numerous types of petitions and special relief petitions, including general petitions seeking special relief, waivers, enforcement, show cause, forfeiture and declaratory ruling procedures.

47 CFR 76.7(g)(2) provides that, in a proceeding initiated pursuant to § 76.7 that is referred to an administrative law judge, the parties may elect to resolve the dispute through alternative dispute resolution procedures, or may proceed with an adjudicatory hearing, provided that the election shall be submitted in

writing to the Commission and the Chief Administrative Law Judge.

47 CFR 76.9. A party that wishes to have confidentiality for proprietary information with respect to a submission it is making to the FCC must file a petition pursuant to the pleading requirements in Section 76.7 and use the method described in Sections 0.459 and 76.9 to demonstrate that confidentiality is warranted. The petitions filed pursuant to this provision are contained in the existing information collection requirement and are not changed by the rule changes.

47 CFR 76.61(a) permits a local commercial television station or qualified low power television station that is denied carriage or channel positioning or repositioning in accordance with the must-carry rules by a cable operator to file a complaint with the FCC in accordance with the procedures set forth in Section 76.7. Section 76.61(b) permits a qualified local noncommercial educational television station that believes a cable operator has failed to comply with the FCC's signal carriage or channel positioning requirements (Sections 76.56 through 76.57) to file a complaint with the FCC in accordance with the procedures set forth in Section 76.7.

47 CFR 76.61(a)(1) states that whenever a local commercial television station or a qualified low power television station believes that a cable operator has failed to meet its carriage or channel positioning obligations, pursuant to Sections 76.56 and 76.57, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or position such signal on a particular channel.

47 CFR 76.61(a)(2) states that the cable operator shall, within 30 days of receipt of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of the must-carry rules. If a refusal for carriage is based on the station's distance from the cable system's principal headend, the operator's response shall include the location of such headend. If a cable operator denies carriage on the basis of the failure of the station to deliver a good quality signal at the cable system's principal headend, the cable operator must provide a list of equipment used to make the measurements, the point of measurement and a list and detailed description of the reception and over-the-air signal processing equipment used, including sketches such as block diagrams and a description of the methodology used for processing the signal at issue, in its response.

47 CFR 76.914(c) permits a cable operator seeking revocation of a franchising authority's certification to file a petition with the FCC in accordance with the procedures set forth in Section 76.7.

47 CFR 76.1003(a) permits any multichannel video programming distributor (MVPD) aggrieved by conduct that it believes constitute a violation of the FCC's program access rules to commence an adjudicatory proceeding at the FCC to obtain enforcement of the rules through the filing of a complaint, which must be filed and responded to in accordance with the procedures specified in Section 76.7, except to the extent such procedures are modified by Section 76.1003.

47 CFR 76.1001(b)(2) permits any multichannel video programming distributor to commence an adjudicatory proceeding by filing a complaint with the Commission alleging that a cable operator, a satellite cable programming vendor in which a cable operator has an attributable interest, or a satellite broadcast programming vendor, has engaged in an unfair act involving terrestrially delivered, cable-affiliated programming, which must be filed and responded to in accordance with the procedures specified in § 76.7, except to the extent such procedures are modified by §§ 76.1001(b)(2) and 76.1003. In program access cases involving terrestrially delivered, cable-affiliated programming, the defendant has 45 days from the date of service of the complaint to file an answer, unless otherwise directed by the Commission. A complainant shall have the burden of proof that the defendant's alleged conduct has the purpose or effect of hindering significantly or preventing the complainant from providing satellite cable programming or satellite broadcast programming to subscribers or consumers; an answer to such a complaint shall set forth the defendant's reasons to support a finding that the complainant has not carried this burden. In addition, a complainant alleging that a terrestrial cable programming vendor has engaged in discrimination shall have the burden of proof that the terrestrial cable programming vendor is wholly owned by, controlled by, or under common control with a cable operator or cable operators, satellite cable programming vendor or vendors in which a cable operator has an attributable interest, or satellite broadcast programming vendor or vendors; an answer to such a complaint shall set forth the defendant's reasons to support a finding that the complainant has not carried this burden.

47 CFR 76.1003(b) requires any aggrieved MVPD intending to file a complaint under this section to first notify the potential defendant cable operator, and/or the potential defendant satellite cable programming vendor or satellite broadcast programming vendor, that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in Sections 76.1001 or 76.1002 of this part. The notice must be sufficiently detailed so that its recipient(s) can determine the nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 CFR 76.1003(c) describes the required contents of a program access complaint, in addition to the requirements of Section 76.7 of this part.

47 CFR 76.1003(c)(3) requires a program access complaint to contain evidence that the complainant competes with the defendant cable operator, or with a multichannel video programming distributor that is a customer of the defendant satellite cable programming or satellite broadcast programming vendor or a terrestrial cable programming vendor alleged to have engaged in conduct described in § 76.1001(b)(1).

47 CFR 76.1003(d) states that, in a case where recovery of damages is sought, the complaint shall contain a clear and unequivocal request for damages and appropriate allegations in support of such claim.

47 CFR 76.1003(e)(1) requires cable operators, satellite cable programming vendors, or satellite broadcast programming vendors which expressly reference and rely upon a document in asserting a defense to a program access complaint or in responding to a material allegation in a program access complaint filed pursuant to Section 76.1003, to include such document or documents, such as contracts for carriage of programming referenced and relied on, as part of the answer. Except as otherwise provided or directed by the Commission, any cable operator, satellite cable programming vendor or satellite broadcast programming vendor upon which a program access complaint is served under this section shall answer within twenty (20) days of service of the

complaint, provided that the answer shall be filed within forty-five (45) days of service of the complaint if the complaint alleges a violation of Section 628(b) of the Communications Act of 1934, as amended, or Section 76.1001(a).

47 CFR 76.1003(e)(2) requires an answer to an exclusivity complaint to provide the defendant's reasons for refusing to sell the subject programming to the complainant. In addition, the defendant may submit its programming contracts covering the area specified in the complaint with its answer to refute allegations concerning the existence of an impermissible exclusive contract. If there are no contracts governing the specified area, the defendant shall so certify in its answer. Any contracts submitted pursuant to this provision may be protected as proprietary pursuant to Section 76.9 of this part.

47 CFR 76.1003(e)(3) requires an answer to a discrimination complaint to state the reasons for any differential in prices, terms, or conditions between the complainant and its competitor, and to specify the particular justification set forth in Section 76.1002(b) of this part relied upon in support of the differential.

47 CFR 76.1003(e)(4) requires an answer to a complaint alleging an unreasonable refusal to sell programming to state the defendant's reasons for refusing to sell to the complainant, or for refusing to sell to the complainant on the same terms and conditions as complainant's competitor, and to specify why the defendant's actions are not discriminatory.

47 CFR 76.1003(f) provides that, within fifteen (15) days after service of an answer, unless otherwise directed by the Commission, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

47 CFR 76.1003(g) states that any complaint filed pursuant to this subsection must be filed within one year of the date on which one of three specified events occurs.

47 CFR 76.1003(h) sets forth the remedies that are available for violations of the program access rules, which include the imposition of damages, and/or the establishment of prices, terms, and conditions for the sale of programming to the aggrieved multichannel video programming distributor, as well as sanctions available under title V or any other provision of the Communications Act.

47 CFR 76.1003(j) states in addition to the general pleading and discovery rules contained in § 76.7 of this part, parties to a program access complaint may serve requests for discovery directly on opposing parties, and file a copy of the request with the Commission. The respondent shall have the opportunity to object to any request for documents that are not in its control or relevant to the dispute. Such request shall be heard, and determination made, by the Commission. Until the objection is ruled upon, the obligation to produce the disputed material is suspended. Any party who fails to timely provide discovery requested by the opposing party to which it has not raised an objection as described above, or who fails to respond to a Commission order for discovery material, may be deemed in default and an order may be entered in accordance with the allegations contained in the complaint, or the complaint may be dismissed with prejudice.

47 CFR 76.1003(l) permits a program access complainant seeking renewal of an existing programming contract to file a petition along with its complaint requesting a temporary standstill of the price, terms, and other conditions of the existing programming contract pending resolution of the complaint, to which the defendant will have the opportunity to respond within 10 days of service of the petition, unless otherwise directed by the Commission.

47 CFR 76.1302(a) states that any video programming vendor or multichannel video programming distributor aggrieved by conduct that it believes constitute a violation of the program carriage rules may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in Section 76.7, except to the extent such procedures are modified by Section 76.1302.

47 CFR 76.1302(b) states that any aggrieved video programming vendor or multichannel video programming distributor intending to file a program carriage complaint must first notify the potential defendant multichannel video programming distributor that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in Section 76.1301 of this part. The notice must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 CFR 76.1302(c) specifies the content of carriage agreement complaints, in addition to the requirements of Section 76.7 of this part.

47 CFR 76.1302(c)(1) provides that a program carriage complaint filed pursuant to § 76.1302 must contain the following: whether the complainant is a multichannel video programming distributor or video programming vendor, and, in the case of a multichannel video programming distributor, identify the type of multichannel video programming distributor, the address and telephone number of the complainant, what type of multichannel video programming distributor the defendant is, and the address and telephone number of each defendant.

47 CFR 76.1302(d) sets forth the evidence that a program carriage complaint filed pursuant to § 76.1302 must contain in order to establish a prima facie case of a violation of § 76.1301.

47 CFR 76.1302(e)(1) provides that a multichannel video programming distributor upon whom a program carriage complaint filed pursuant to § 76.1302 is served shall answer within sixty (60) days of service of the complaint, unless otherwise directed by the Commission.

47 CFR 76.1302(e)(2) states that an answer to a program carriage complaint shall address the relief requested in the complaint, including legal and documentary support, for such response, and may include an alternative relief proposal without any prejudice to any denials or defenses raised.

47 CFR 76.1302(f) states that within twenty (20) days after service of an answer, unless otherwise directed by the Commission, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

47 CFR 76.1302(h) states that any complaint filed pursuant to this subsection must be filed within one year of the date on which one of three events occurs.

47 CFR 76.1302(j)(1) states that upon completion of such adjudicatory proceeding, the Commission shall order appropriate remedies, including, if necessary, mandatory carriage of a video programming vendor's programming on defendant's video distribution system, or the establishment of prices, terms, and conditions for the carriage of a video programming vendor's programming.

47 CFR 76.1302(k) permits a program carriage complainant seeking renewal of an existing programming contract to file a petition along with its complaint requesting a temporary standstill of the price, terms, and other conditions of the existing programming contract pending resolution of the complaint, to which the defendant will have the opportunity to respond within 10 days of service of the petition, unless otherwise directed by the Commission. To allow for sufficient time to consider the petition for temporary standstill prior to the expiration of the existing programming contract, the petition for temporary standstill and complaint shall be filed no later than thirty (30) days prior to the expiration of the existing programming contract.

47 CFR 76.1513(a) permits any party aggrieved by conduct that it believes constitute a violation of the FCC's regulations governing open video systems or in section 653 of the Communications Act (47 U.S.C. 573) to commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint, which must be filed and responded to in accordance with the procedures specified in Section 76.7, except to the extent such procedures are modified by Section 76.1513.

47 CFR 76.1513(b) provides that an open video system operator may not provide in its carriage contracts with programming providers that any dispute must be submitted to arbitration, mediation, or any other alternative method for dispute resolution prior to submission of a complaint to the Commission.

47 CFR 76.1513(c) requires that any aggrieved party intending to file a complaint under this section must first notify the potential defendant open video system operator that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in this part or in Section 653 of the Communications Act. The notice must be in writing and must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 CFR 76.1513(d) describes the contents of an open video system complaint.

47 CFR 76.1513(e) states that an open video system operator upon which a complaint is served under this section shall answer within thirty (30) days of service of the complaint and specifies the requirements for such answers.

47 CFR 76.1513(f) states within twenty (20) days after service of an answer, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

47 CFR 76.1513(g) requires that any complaint filed pursuant to this subsection must be filed within one year of the date on which one of three events occurs.

47 CFR 76.1513(h) states that upon completion of the adjudicatory proceeding, the Commission shall order appropriate remedies, including, if necessary, requiring carriage, awarding damages to any person denied carriage, or any combination of such sanctions. Such order shall set forth a timetable for compliance, and shall become effective upon release.

OMB Control Number: 3060–1254.

Title: Next Gen TV/ATSC 3.0 Local Simulcasting Rules; 47 CFR 73.3801 (full-power TV), 73.6029 (Class A TV), and 74.782 (low-power TV) and FCC Form 2100 (Next Gen TV License Application).

Form Number: FCC Form 2100 (Next Gen TV License Application).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, state, local, or tribal government and not for profit institutions.

Number of Respondents and Responses: 1,222 respondents; 11,260 responses.

Estimated Time per Response: 0.017–8 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 1, 4, 7, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 157, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535.

Total Annual Burden: 3,802 hours.

Total Annual Cost: $147,000.

Needs and Uses: On June 23, 2023, the Commission released a Third Report and Order (Third R&O), FCC 23–53, in GN Docket No. 16–142. In this Third R&O, the Commission makes changes to its Next Gen TV rules designed to preserve over-the-air (OTA) television viewers' access to multicast streams during television broadcasters' transition to ATSC 3.0.

Multicast Licensing. The Commission generally adopts its proposal in the Next Gen TV Multicast Licensing FNPRM to allow a Next Gen TV station to seek modification of its license to include certain of its non-primary video programming streams (multicast streams) that are aired on ''host'' stations during a transitional period. In adopting this proposal, the Commission follows the same licensing framework, and to a large extent the same regulatory regime, established for the simulcast of primary video programming streams on ''host'' station facilities.

Form 2100. The Commission adopts the Next Gen TV Multicast Licensing FNPRM's proposal to modify its Next Gen TV license application form (FCC Form 2100) to accommodate multicast licensing by collecting information similar to that already collected in the interim STA process. The Commission requires certain additional information as an addendum to Form 2100 if stations seek to include hosted multicast streams within their license. It also clarifies and slightly modifies the requirements of its rules governing Form 2100 to reflect the possibility of reliance on multiple hosts.

Specifically, applicants must prepare an Exhibit identifying each proposed hosted stream and provide the following information about each stream, as broadcast:

- the host station;
- channel number (RF and virtual);
- network affiliation (or type of programming if unaffiliated);
- resolution (*e.g.,* 1080i, 720p, 480p, or 480i);
- the predicted percentage of population within the noise limited service contour served by the station's original ATSC 1.0 signal that will be served by the host, with a contour overlay map identifying areas of service loss and, in the case of 1.0 streams, coverage of the originating station's community of license; and
- whether the stream will be simulcast, and if so, the ''paired'' stream in the other service. Finally, the Exhibit must either state that the applicant will be airing the same programming that it is airing in 1.0 at the time of the application or identify the station that has aired or is airing the same or a similar programming lineup at the same resolutions on the same type of facility (individual or shared), as well as that station's lineup (with resolutions). This Exhibit must be placed on the applicant's public website or in the applicant's online public inspection file if the station does not have a dedicated website, with a link provided in the application. This information is

consistent both with that currently collected in STA applications and the approach identified in the Next Gen TV Multicast Licensing FNPRM. As with broadcast licenses generally, modifications to this license application or its accompanying exhibit (with respect to the primary or multicast streams) must be preceded by the filing and approval of a new application. Changes to the affiliation or content of a stream, or the elimination of a stream, however, do not implicate the concerns raised in this proceeding if they would not result in the use of additional capacity and if information about the change is easily available to the public. Therefore, in order to streamline this process for both broadcasters and the Commission, such changes may be implemented without prior Commission approval. They need only be reflected in a timely update to the Exhibit that the applicant makes available on its public website or in the applicant's online public inspection file and in an email notice to the Chief of the Media Bureau's Video Division. The new information collection requirements are contained in §§ 73.3801(f) and (i), 73.6029(f) and (i), and 74.782(g) and (j) of the Commission's rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–21304 Filed 9–28–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0441; FR ID 173081]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before November 28, 2023. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

OMB Control Number: 3060–0441.

Title: Section 90.621, Selection and Assignment of Frequencies and Section 90.693, Grandfathering Provisions for Incumbent Licensees.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; and State, Local, or Tribal Government.

Number of Respondents: 596 respondents; 596 responses.

Estimated Time per Response: 1.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i) and 309(j).

Total Annual Burden: 894 hours.

Total Annual Cost: $74,500.

Needs and Uses: Section 90.621(b)(4) allows stations to be licensed at distances less than those prescribed in the Short-Spacing Separation Table where applicants ''secure a waiver.'' Applicants seeking a waiver in these circumstances are still required to submit with their application an interference analysis, based upon any of the generally-accepted terrain-based propagation models, demonstrating that co-channel stations would receive the same or greater interference protection than provided in the Short-Spacing Separation Table.

Section 90.621(b)(5) permits stations to be located closer than the required separation, so long as the applicant provides letters of concurrence indicating that the applicant and each co-channel licensee within the specified separation agree to accept any interference resulting from the reduced separation between systems. Applicants are still required to file such concurrence letters with the Commission. Additionally, the Commission did not eliminate filings required by provisions such as international agreements, its environmental (National Environmental Protection Act (NEPA)) rules, its antenna structure registration rules, or quiet zone notification/filing procedures.

Section 90.693 requires that 800 MHz incumbent Specialized Mobile Radio (SMR) service licensees ''notify the Commission within 30 days of any changes in technical parameters or additional stations constructed that fall within the short-spacing criteria.'' It has been standard practice for incumbents to notify the Commission of all changes and additional stations constructed in cases where such stations are in fact located less than the required 70 mile distance separation, and are therefore technically ''short-spaced,'' but are in fact fully compliant with the parameters of the Commission's Short-Spacing Separation Table.

The Commission uses this information to determine whether to grant licenses to applicants making ''minor modifications'' to their systems which do not satisfy mileage separation requirements pursuant to the Short-Spacing Separation Table.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–21474 Filed 9–28–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 19–329; FR ID 175157]

Federal Advisory Committee Act; Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States (Task Force) will hold its next meeting live and via live internet link.

DATES: November 6, 2023. The meeting will come to order at 10:00 a.m. ET.

ADDRESSES: The meeting will be open to the public and held in the Commission Meeting Room at FCC Headquarters, located at 45 L Street NE, Washington, DC 20554, and will also be available via live feed from the FCC's web page at *www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Christi Shewman, Designated Federal Officer, at (202) 418–0646, or *Christi.Shewman@fcc.gov;* Emily Caditz, Deputy Designated Federal Officer, at (202) 418–2268, or *Emily.Caditz@fcc.gov;* or Thomas Hastings, Deputy Designated Federal Officer, at (202) 418–1343, or *Thomas.Hastings@fcc.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be held on November 6, 2023 at 10:00 a.m. ET in the Commission Meeting Room at FCC Headquarters, 45 L Street NE, Washington, DC, and will be open to the public, with admittance limited to seating availability. Any questions that arise during the meeting should be sent to *PrecisionAgTF@fcc.gov* and will be answered at a later date. Members of the public may submit comments to the Task Force in the FCC's Electronic Comment Filing System, ECFS, at *www.fcc.gov/ecfs.* Comments to the Task Force should be filed in GN Docket No. 19–329.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted but may not be possible to fill.

Proposed Agenda: At this meeting, the Task Force plans to vote on reports and recommendations discussed during the Task Force's term. This agenda may be modified at the discretion of the Task Force Chair and the Designated Federal Officer.

(5 U.S.C. App. 2 10(a)(2))

Federal Communications Commission.

Jodie May,

Division Chief, Competition Policy Division, Wireline Competition Bureau.

[FR Doc. 2023–21394 Filed 9–28–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Open Meeting of the FDIC Advisory Committee on Economic Inclusion

AGENCY: Federal Deposit Insurance Corporation.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Economic Inclusion. The Advisory Committee will provide advice and recommendations on initiatives to expand access to banking services by underserved populations. The meeting is open to the public. The public's means to observe this meeting of the Advisory Committee on Economic Inclusion will be both in-person and via a Webcast live on the internet. In addition, the meeting will be recorded and subsequently made available on-demand approximately two weeks after the event. To view the live event, visit *http://fdic.windrosemedia.com.*

DATES: Wednesday, November 2, 2023, from 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the 6th floor of the FDIC Building located at 550 17th Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Debra A. Decker, Committee Management Officer of the FDIC at (202) 898–8748.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will include updates from Committee members about key challenges facing their communities or organizations. There will be panel discussions on the current environment, including industry and market trends that affect consumer participation in the banking system. The agenda is subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. Observers requiring auxiliary aids (*e.g.,* sign language interpretation) for this meeting should email *DisabilityProgram@fdic.gov* to make necessary arrangements. This meeting will also be Webcast live via the internet at *http://fdic.windrosemedia.com.* To view the recording, visit *http://fdic.windrosemedia.com/index.php?category=Advisory+Committee+on+Economic+Inclusion+-+(Come-IN).* Written statements may be filed with the committee before or after the meeting.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 26, 2023.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2023–21434 Filed 9–28–23; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, October 5, 2023 at 10:30 a.m.

PLACE: Hybrid meeting: 1050 First Street NE Washington, DC (12th floor) and virtual. *Note:* For those attending the meeting in person, current COVID–19 safety protocols for visitors, which are based on the CDC COVID–19 hospital admission level in Washington, DC, will be updated on the Commission's contact page by the Monday before the meeting. See the contact page at *https://www.fec.gov/contact/.* If you would like to virtually access the meeting, see the instructions below.

STATUS: This meeting will be open to the public, subject to the above-referenced guidance regarding the COVID–19 hospital admission level and corresponding health and safety procedures. To access the meeting virtually, go to the commission's website *www.fec.gov* and click on the banner to be taken to the meeting page.

MATTERS TO BE CONSIDERED:

Proposed Directive Regarding Investigations Conducted by the Office of General Counsel

Audit Division Recommendation Memorandum on Citizens for Waters (A21–01)

Management and Administrative Matters

Additional Information:

This meeting will be cancelled if the Commission is not open due to a funding lapse.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Individuals who plan to attend in person and who require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Laura E. Sinram, Secretary and Clerk, at (202) 694–1040 or *secretary@fec.gov,* at least 72 hours prior to the meeting date.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2023–21715 Filed 9–27–23; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS23–14]

Submission for OMB Review; Comment Request

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).

ACTION: Notice.

SUMMARY: The ASC as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension of a currently approved collection, as required by the Paperwork Reduction Act of 1995. On June 27, 2023, the ASC requested comment for 60 days on a proposal to renew this information collection. No comments were received. The ASC hereby gives notice of its plan to submit to the Office of Management and Budget (OMB) a request to approve the renewal of this collection and again invites comment on its renewal.

DATES: Written comments must be received on or before October 30, 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: Lori Schuster, Management and Program Analyst, at (202) 595–7578, Appraisal Subcommittee, 1325 G Street NW, Suite 500, Washington, DC 20005. View the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: Collection and Transmission of Annual AMC Registry Fees.

OMB Number: 3139–0008.

Type of Review: Extension of a currently approved collection.

Abstract: States that register and supervise appraisal management companies (AMCs) are required to collect and transmit annual AMC registry fees to the ASC. 12 CFR part 1102, and in particular section 1102.402, established the annual AMC registry fee for States that register and supervise AMCs as follows: (1) in the case of an AMC that has been in existence for more than a year, $25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State during the previous year; and (2) in the case of an AMC that has not been in existence for more than a year, $25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State since the AMC commenced doing business. Performance of an appraisal means the appraisal service requested of an appraiser by the AMC was provided to the AMC. Section 1102.403 requires AMC registry fees to be collected and transmitted to the ASC on an annual basis by States that register and supervise AMCs. Only those AMCs whose registry fees have been transmitted to the ASC are eligible to be on the AMC Registry for the 12-month period following the payment of the fee. Section 1102.403 clarified that States may align a one-year period with any 12-month period, which may, or may not, be based on the calendar year. The registration cycle is left to the individual States to determine.

Current Action: There are no changes being made to this regulation.

Affected Public: States, businesses, or other for-profit organizations.

Estimated Number of Respondents: 389 AMCs, 49 States. Based on a review of AMC Registry data as of September 14, 2023, there are approximately 389 distinct AMCs listed on the AMC Registry as reported by 49 States. Therefore, we have changed the estimated number of AMCs from 350 to 389. Currently 50 States have AMC Programs with 49 States reporting data to the AMC Registry.

Estimated Total Annual Burden Hours: For States—We estimate that a State will spend approximately 60 hours annually submitting data to the ASC.

For AMCs—5,145 hours. This estimate has increased from 4,437. As of September 14, 2023, there were 5,147 active AMC entries on the AMC Registry. We estimate that it takes each AMC one hour to report its data to each State in which the AMC is registered. Assuming an average of 105 AMCs per State, this would total 5,145 active AMCs in 49 States.

Frequency of Response: Event generated.

* * * * *

By the Appraisal Subcommittee.

James R. Park,

Executive Director.

[FR Doc. 2023–21436 Filed 9–28–23; 8:45 am]

BILLING CODE 6700–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project ''*Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.*''

DATES: Comments on this notice must be received by October 30, 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.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results 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 the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. The current clearance was approved on November 2, 2020 (OMB Control Number 0935–0179) and will expire on November 30, 2023. Feedback collected under this generic clearance will provide useful information, but it will 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: (1) the target population to which generalizations will be made; (2) the sampling frame; (3) the sample design (including stratification and clustering); (4) the precision requirements or power calculations that justify the proposed sample size; (5) the expected response rate; (6) methods for assessing potential nonresponse bias; (7) the protocols for data collection; (8) 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.

Below we provide AHRQ's projected average annual estimates for the next three years:

Current Actions: New collection of information.

Type of Review: New Collection.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of Activities: 10.

Respondents: 10,900.

Annual responses: 10,900.

Frequency of Response: Once per request.

The total number of respondents across all 10 activities each year is 10,900.

Average minutes per response: 19.

Burden hours: 3,383.

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 Office of Management and Budget control number.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: September 26, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023–21551 Filed 9–28–23; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed updates to the currently approved information collection project: ''Medical Expenditures Panel Survey—Household and Medical Provider Components.'' In accordance with the Paperwork Reduction Act of 1995, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by November 28, 2023.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Medical Expenditures Panel Survey—Household and Medical Provider Components

AHRQ requests that OMB approve a change to AHRQ's collection of information for the Medical Expenditures Panel Survey—Household and Medical Provider Components: OMB Control number 0935–0118, expiration November 30, 2025. Requested changes are for the Household Component (MEPS–HC) only.

The MEPS was initiated in 1996. Each year a new panel of sample households is selected. Recent annual MEPS–HC sample sizes average about 13,500 households. Data can be analyzed at either the person, family, or event level. The panel design of the survey, which includes 5 rounds of interviews covering 2 full calendar years, provides data for examining person level changes in selected variables such as expenditures, health insurance coverage, and health status.

This research has the following goals:

(1) To produce nationally representative estimates of health care

use, expenditures, sources of payment, and health insurance coverage for the U.S. civilian noninstitutionalized population.

(2) To produce nationally representative estimates of respondents' health status, demographic and socio-economic characteristics, employment, access to care, and satisfaction with health care.

Proposed Changes for the Fall 2024 MEPS–HC:

• *Core MEPS Interview*—Seven economic burden questions will be added to the Core interview. Five of these questions come from the Preventive Care Services Self-Administered Questionnaire (PSAQ), and two are new to the MEPS. The specific topics of the five questions moving from the PSAQ are partial and late payments for bills, having been contacted by debt collection agencies, and ability to pay for unexpected expenses. The questions were modified to be asked at the household level. These topics are important for understanding the context families face in paying for health care. The new questions asking about medical debt are modified versions of questions used in the Survey of Income and Program Participation (SIPP). The SIPP asks the question at a person level; AHRQ has modified it to be asked at the household level. Collecting medical debt amounts will enable analyses of how medical debt is related to health care access, use, health outcomes, and financial status. In addition, the wording for eight food security questions has been slightly modified to allow for proxy responses; thus, all households will be asked these questions.

Preventive Care Services Self-Administered Questionnaire (PSAQ)—The PSAQ will have the following changes for Fall 2024:

• Removing five economic burden questions, which will be added to the Core interview;

• Combining the Male and Female PSAQ questionnaires into a single questionnaire and revising the sex-specific questions accordingly;

• Adding Sexual Orientation and Gender Identity (SOGI) questions to the end of the questionnaire;

• Changing the age-specific skips to reflect new recommendations for specific preventive health screening procedures;

• Creating a web-based mode of completion as an alternative option to the traditional pen-and-paper-based survey.

The incorporation of SOGI questions into the PSAQ aligns with the objectives outlined in Executive Order 14075, titled ''Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals.'' The inclusion of these questions necessitated further adjustments to the questionnaires, including the consolidation of the traditionally segregated male and female questionnaires into a unified form. Optimally incorporating sex-specific preventive care questions (*e.g.,* prostate cancer screening) in surveys in a manner that respects all gender identities requires balancing multiple competing factors. AHRQ consulted with federal agencies fielding surveys with SOGI and preventive care questions, and they have not yet modified their preventive care questions to account for gender minorities. For this initial attempt in the MEPS, AHRQ balanced the following considerations: respect for gender minority respondents, cognitive burden among cisgender respondents, minimizing skip patterns to maintain consistency between pen-and-paper and web-based modes of the PSAQ, and the strong expectation that the number of gender minority respondents in the relevant age ranges will be too small to support estimates of receipt of sex-specific preventive services in this population. AHRQ will continue to monitor best practices and empirical studies by consulting with NCHS and the National Cancer Institute (NCI) to revise the PSAQ when it is fielded again in the future.

• Cancer Self-Administered Questionnaire (Cancer SAQ)—The NCI has collaborated in previous years with AHRQ to create the MEPS Experiences with Cancer Supplement, which oversampled households with cancer survivors from the prior year National Health Interview Survey (NHIS) and fielded a special survey about economic burden and access to care in cancer survivors. Due to a change in the NHIS sample design, MEPS will not be able to oversample cancer survivors in the 2024 data collection. The current effort will field an updated version of the MEPS Experiences with Cancer Survey in the Fall 2024 MEPS–HC. The new version of the survey will include most of the same questions as the earlier survey to allow comparisons of trends and will replace some survey items that are now less critical or available from other data sources with new questions on employment impacts and workplace accommodations; survivorship care; social determinants of health; and social isolation and support.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the cost and use of health care services and with respect to health statistics and surveys. 42 U.S.C. 299a(a)(3) and (8); 42 U.S.C. 299b–2.

Method of Collection

The MEPS–HC uses a combination of computer assisted personal interviewing (CAPI), computer assisted video interviewing (CAVI), and self-administered paper and web questionnaires, to collect information about each household member, and the survey builds on this information from interview to interview. CAVI is a new data collection technology and offers the best of both telephone and in-person interviewing, while offering opportunities for cost savings and more accurate reporting.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in the MEPS–HC and the MEPS–MPC.

The MEPS–HC Core Interview will be completed by 11,750 ''family level'' respondents. Since the MEPS–HC typically consists of 5 rounds of interviewing covering a full two years of data, the annual average number of responses per respondent is 2.5 responses per year. The MEPS–HC core requires an average response time of 88 minutes to administer. The Adult SAQ is completed once during the 2-year panel, in rounds 2 and 4 during odd numbered years, making the annualized average 0.5 times per year. The Adult SAQ will be completed by 5,688 adults and requires an average of 7 minutes to complete. The PSAQ is completed once during the 2-year panel, in rounds 2 and 4 during even numbered years, making the annualized average 0.5 times per year. The PSAQ will be completed by 5,688 adults and requires an average of 7 minutes to complete. The Diabetes Care Survey will be completed by 1,000 persons each year and requires 3 minutes to complete. The Cancer SAQ will be completed by 1,500 persons each year and requires 20 minutes to complete. Authorization forms for the MEPS–MPC and Pharmacy Survey will be completed by 11,750 respondents. Each respondent will complete an average of 4.66 forms each year, with each form requiring an average of 3 minutes to complete. A validation interview will be conducted with 4,225 respondents each year and requires 5 minutes to complete. The total burden hours for the respondents' time to participate in the MEPS–HC is estimated to be 47,387 hours.

The MEPS–MPC Contact Guide/Screening Call will be conducted with 54,758 providers and pharmacies each year and requires 5 minutes to complete. The Home Care Providers Event Form will be completed by 886 providers, with each provider completing an average of 5.8 forms and each form requiring 3 minutes to complete. The Office-based Providers Event Form will be completed by 14,950 providers. Each provider will complete an average of 4.3 forms and each form requires 3 minutes to complete. The Separately Billing Doctors Event Form will be completed by 12,690 providers, with each provider completing 1.4 forms on average, and each form requiring 3 minutes to complete. The Hospital Event Form will be completed by 8,302 hospitals or HMOs. Each hospital or HMO will complete 7.5 forms on average, with each form requiring 3 minutes to complete. The Institutions (non-hospital) Event Form will be completed by 118 institutions, with each institution completing 1.3 forms on average, and each form requiring 3 minutes to complete. The Pharmacy Event Form will be completed by 9,079 pharmacies. Each pharmacy will complete 37.6 forms on average, with each form requiring 3 minutes to complete. The total burden hours for the respondent's time to participate in the MEPS–MPC is estimated to be 29,111 hours. The total annual burden hours for the MEPS–HC and MPC is estimated to be 76,498 hours.

Exhibit 2 shows the estimated annual cost burden associated with the respondents' time to participate in this information collection. The annual cost burden for the MEPS–HC is estimated to be $1,410,236; the annual cost burden for the MEPS–MPC is estimated to be $569,200. The total annual cost burden for the MEPS–HC and MPC is estimated to be $1,979,436.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
MEPS–HC				
MEPS–HC Core Interview	11,750	2.5	88/60	43,083
Adult SAQ *	5,688	0.5	7/60	332
Preventive Care SAQ (PSAQ) **	5,688	0.5	7/60	332
Diabetes Care Survey (DCS)	1,000	1	3/60	50
Cancer SAQ	1,500	1	20/60	500
Authorization forms for the MEPS–MPC Provider and Pharmacy Survey	11,750	4.66	3/60	2,738
MEPS Validation Interview	4,225	1	5/60	352
Subtotal for the MEPS–HC	41,600	.....	.....	47,387
MEPS–MPC				
MPC Contact Guide/Screening Call	54,758	1	5/60	4,563
Home Care Providers Event Form	886	5.8	3/60	257
Office-based Providers Event Form	14,950	4.3	3/60	3,214
Separately Billing Doctors Event Form	12,690	1.4	3/60	888
Hospitals & HMOs (Hospital Event Form)	8,302	7.5	3/60	3,113
Institutions (non-hospital) Event Form	118	1.3	3/60	8
Pharmacies Event Form	9,079	37.6	3/60	17,068
Subtotal for the MEPS–MPC	100,783	.....	.....	29,111
Grand Total	142,383	.....	.....	76,498

* The Adult SAQ is completed once every two years, on the odd numbered years.
** The PSAQ is completed once every two years, on the even numbered years.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate	Total cost burden
MEPS–HC				
MEPS–HC Core Interview	11,750	43,083	* $29.76	$1,282,150
Adult SAQ	5,688	332	* 29.76	9,880
Preventive Care SAQ (PSAQ)	5,688	332	* 29.76	9,880
Diabetes Care Survey (DCS)	1,000	50	* 29.76	1,488
Cancer SAQ	1,500	500	* 29.76	14,880
Authorization forms for the MEPS–MPC Provider and Pharmacy Survey	11,750	2,738	* 29.76	81,483
MEPS Validation Interview	4,225	352	* 29.76	10,475
Subtotal for the MEPS–HC	41,600	47,387	.....	1,410,236
MEPS–MPC				
MPC Contact Guide/Screening Call	54,758	4,563	** 19.84	90,530
Home care Providers Event Form	886	257	** 19.84	5,099

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN—Continued

Form name	Number of respondents	Total burden hours	Average hourly wage rate	Total cost burden
Office-based Providers Event Form	14,950	3,214	** 19.84	63,766
Separately Billing Doctors (SBD) Event Form	12,690	888	** 19.84	17,618
Hospitals & HMOs (Hospital Event Form	8,302	3,113	** 19.84	61,762
Institutions (non-hospital) Event Form	118	8	** 19.84	159
Pharmacies Event Form	9,079	17,068	*** 19.35	330,266
Subtotal for the MEPS–MPC	100,783	29,111	.....	569,200
Grand Total	142,383	77,067	.....	1,979,436

* Mean hourly wage for All Occupations (00–0000).
** Mean hourly wage for Medical Secretaries (43–6013).
*** Mean hourly wage for Pharmacy Technicians (29–2052).
Occupational Employment Statistics, May 2022 National Occupational Employment and Wage Estimates United States, U.S. Department of Labor, Bureau of Labor Statistics.

Request for Comments

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: September 26, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023–21473 Filed 9–28–23; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Healthcare Industry Waste and Lifecycle Assessment

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for supplemental evidence and data submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Healthcare Industry Waste and Lifecycle Assessment,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before October 30, 2023.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kelly Carper, Telephone: 301–427–1656 or *Email: epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Healthcare Industry Waste and Lifecycle Assessment.* AHRQ is conducting this review pursuant to section 902 of the Public Health Service Act, 42 U.S.C. 299a.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Healthcare Industry Waste and Lifecycle Assessment.* The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/products/lifecycle-assessment.*

This is to notify the public that the EPC Program would find the following information on *Healthcare Industry Waste and Lifecycle Assessment* helpful:

- A list of completed studies that your organization has sponsored for this topic. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* a summary, including the following elements, if relevant: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this topic.* In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including, if relevant, a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your organization for this topic and an index

outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on topics not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates*.

The review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

Guiding Questions (GQ)

GQ1. Frameworks for Life Cycle Assessment (LCA)

- What LCA frameworks have been developed or adapted for healthcare settings, products, and procedures?

i. What data sources, measures/indicators, and methods are used to inform these frameworks?

ii. Which components of the frameworks are thought to have the greatest association with carbon footprint?

iii. What limitations of these frameworks have been described?

GQ2. Studies of LCA

- How are LCAs applied in healthcare research?

i. What topic areas have been studied and for what settings?

ii. What data sources, measures/indicators, and methods were used in the analysis?

iii. What outcomes have been studied, and what were the findings?

iv. What were cited limitations of the research?

GQ3. Gaps in the Knowledge and Future Research Needs

- Are there frameworks that are being developed or have been developed but not yet implemented?
- What are possible areas of future research?

CRITERIA FOR INCLUSION/EXCLUSION OF STUDIES IN THE REVIEW

Domain	Inclusion	Exclusion
Population	• *GQ1:* Publications that include a figure or detailed description of a life cycle assessment framework. • *GQ2:* Publications that describe the methods and results of a life cycle assessment study. • *GQ3:* Registered research of life cycle framework development or assessment.	• Publications citing existing frameworks without further conceptual contribution to the framework and publications describing only the need or future plans of conducting a life cycle assessment.
Concept	Life cycle assessments that address either scope 1, scope 2, scope 3 emissions. Scope 1: Direct emissions (facilities, anesthetics, fleet and leased vehicles), Scope 2: Indirect emissions (electricity, stream). Scope 3: Other indirect emissions (food and catering, business services, medical devices, medicines, water, metered-dose inhalers, energy [well-to-tank], business travel [public transit, gray fleet], staff commuting, manufacturing [products, chemicals, gases], waste, information technology, Health Care Organization (HCO) investments, construction, and freight transport). • *GQ1:* Frameworks for life cycle assessments, including logic models, analytic frameworks, or other conceptualization. • *GQ2:* Published life cycle assessments, life cycle assessments do not need to meet ISO (International Organization for Standardization) 14040 standards but need to describe a goal, scope, and boundaries; assessment can describe partials or full cradle to grave cycles. • *GQ3:* Ongoing research, development of frameworks and assessments.	• Frameworks, assessments, ongoing research not including life cycle assessments.
Context	• Healthcare: healthcare delivery organizations, health insurance, or manufacturers/suppliers that directly contribute to the delivery of healthcare (e.g., supply of personal protective equipment) including scope 1, scope 2, and scope 3 emissions.	• Studies in contexts not specific to healthcare.
Other limiter	• Information published in English-language journal manuscripts, trial records, and gray literature in the public domain from the outlined sources.	• Data reported in abbreviated format (e.g., conference abstracts) will be excluded; systematic reviews will be retained for reference mining.

Abbreviations: GQ guiding questions; HCO health care organization; ISO International Standards Organization.

Dated: September 26, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023–21481 Filed 9–28–23; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Recommencement in Reporting Requirements for the Federal Cigarette Labeling and Advertising Act (FCLAA) and Comprehensive Smokeless Tobacco Health Education Act (CSTHEA)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: On April 27, 2020, the Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), published a notice in the **Federal Register** announcing an extension of the deadline for annual reporting of data submitted for cigarettes and smokeless tobacco products, respectively, under the Federal Cigarette Labeling and Advertising Act (FCLAA) and the Comprehensive Smokeless Tobacco Health Education Act (CSTHEA). CDC announced this extension due to the public health response to the COVID–19 pandemic. CDC has since re-evaluated this extension and determined that data submissions can recommence. Required ingredient reports and nicotine analysis reports must be submitted to CDC on or before March 31, 2024.

DATES: The deadline to submit required annual ingredient reports and nicotine analysis reports to CDC shall be March 31, 2024. Beginning March 31, 2024, ingredient reports for cigarette and/or smokeless tobacco products and specifications of the quantity of nicotine contained in smokeless tobacco products that are imported to the United States for the first time must also be submitted at the time of importation.

FOR FURTHER INFORMATION CONTACT: Kathy Gallagher, Office on Smoking and Health, the Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS S107–7, Chamblee, Georgia 30341. Email: *nccdoshfclaa@cdc.gov;* Telephone: 404–639–5349.

SUPPLEMENTARY INFORMATION:

Background

In the **Federal Register** Notice published on April 27, 2020 (85 FR 23359), CDC announced a deadline extension for submissions required under FCLAA (15 U.S.C. 1335a) and CSTHEA (15 U.S.C. 4403) for cigarettes and smokeless tobacco products, respectively, due to the public health response to the COVID–19 pandemic. CDC indicated its inability to accept data submissions or to issue Certificates of Compliance due to unforeseen circumstances created by the pandemic.

CDC has since re-evaluated its ability to accept data submissions and has determined that it can recommence receiving submissions and issuance of Certificates of Compliance. The Federal COVID–19 Public Health Emergency (PHE) Declaration ended on May 11, 2023. As established in prior notices, ingredient reports and nicotine analysis reports are due annually on March 31, and upon initial importation of a cigarette or smokeless tobacco product that is imported to the United States for sale for the first time. For all cigarette and smokeless tobacco products, the deadline to submit required annual ingredient reports and nicotine analysis reports to CDC shall be March 31, 2024. The ingredient reports and nicotine analysis reports due by this date shall fulfill the annual submission compliance for calendar year 2023. There is no requirement to retroactively submit ingredient reports or nicotine analysis reports for calendar year 2020, 2021, or 2022. Beginning March 31, 2024, ingredient reports for cigarette and/or smokeless tobacco products and specifications of the quantity of nicotine contained in smokeless tobacco products that are imported to the United States for the first time must also be submitted at the time of importation.

Information shall be submitted to CDC by mailing or faxing a written report on the letterhead of the manufacturer, packager, importer, respective counsel, or designated individual or entity. However, all faxed information should be followed up with a mailed original. CDC no longer accepts submissions transmitted on CD, 3-inch floppy disk, and/or thumb drive. Electronic mail submissions are not accepted at this time given the inability to ensure the confidentiality of information submitted.

Paperwork Reduction Act

The Paperwork Reduction Act (PRA) requires that Federal agencies obtain approval from the Office of Management and Budget (OMB) for the standardized collection of data from 10 or more entities. CDC has approval from OMB under Control Number 0920–0210, expiration January 31, 2026, to collect cigarette ingredient information. Pursuant to FCLAA, each manufacturer, packager, or importer of cigarettes must annually submit to HHS a list of ingredients added to tobacco in the manufacture of cigarettes. HHS has delegated the responsibility of implementing provisions under FCLAA to CDC. Submission of ingredient reports are due to CDC every year by March 31. With respect to cigarette products imported to the United States, the ingredient report is due upon initial importation of cigarettes into the United States.

CDC also has approval from OMB under Control Number 0920–0338, expiration January 31, 2026, to collect smokeless tobacco product ingredient and nicotine content information, through ingredient reports and nicotine analysis reports. Pursuant to the CSTHEA, each manufacturer, packager, or importer of smokeless tobacco products must annually submit to HHS a list of ingredients added to tobacco in the manufacture of smokeless tobacco products and the quantity of nicotine contained in each smokeless tobacco product. HHS has delegated the responsibility of implementing provisions under CSTHEA to CDC. Submission of ingredient reports and nicotine analysis reports are due to CDC every year by March 31. With respect to smokeless tobacco products imported to the United States, the ingredient reports and nicotine analysis reports are due upon initial importation of smokeless tobacco products into the United States.

Upon receipt of reports pursuant to FCLAA and CSTHEA, CDC issues Certificates of Compliance for all submissions that meet the following requirements: (1) the submission clearly states on whose behalf the submission is made; and (2) the list of ingredients, including chemical names and corresponding Chemical Abstract Service (CAS) registry numbers, added to tobacco in the manufacture of cigarettes and/or smokeless tobacco products is complete and without error.

This current notice published September 29, 2023 serves to provide updates to the public regarding the recommencement of annual data reporting requirements for cigarette and smokeless products manufactured, packaged, or imported in calendar year 2023, for which the next submission of data as required under FCLAA and CSTHEA must be received by CDC on or before March 31, 2024. Beginning March 31, 2024, ingredient reports and/or nicotine analysis reports for cigarette and/or smokeless tobacco products newly imported to the United States must also be submitted at the time of importation.

Tiffany Brown,

Executive Secretary,Centers for Disease Control and Prevention.

[FR Doc. 2023–21431 Filed 9–28–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4202–N]

Medicare Program; Medicare Appeals; Adjustment to the Amount in Controversy Threshold Amounts for Calendar Year 2024

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

ACTION: Notice.

SUMMARY: This notice announces the annual adjustment in the amount in controversy (AIC) threshold amounts for Administrative Law Judge (ALJ) hearings and judicial review under the Medicare appeals process. The adjustment to the AIC threshold amounts will be effective for requests for ALJ hearings and judicial review filed on or after January 1, 2024. The calendar year 2024 AIC threshold amounts are $180 for ALJ hearings and $1,840 for judicial review.

DATES: This annual adjustment takes effect on January 1, 2024.

FOR FURTHER INFORMATION CONTACT: Liz Hosna, (410) 786–4993.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1869(b)(1)(E) of the Social Security Act (the Act) established the amount in controversy (AIC) threshold amounts for Administrative Law Judge (ALJ) hearings and judicial review at $100 and $1,000, respectively, for Medicare Part A and Part B appeals. Additionally, section 1869(b)(1)(E) of the Act provides that beginning in January 2005, the AIC threshold amounts are to be adjusted annually by the percentage increase in the medical care component of the consumer price index (CPI) for all urban consumers (U.S. city average) for July 2003 to the July preceding the year involved and rounded to the nearest multiple of $10. Sections 1852(g)(5) and 1876(c)(5)(B) of the Act apply the AIC adjustment requirement to Medicare Part C/ Medicare Advantage (MA) appeals and certain health maintenance organization and competitive health plan appeals. Health care prepayment plans are also subject to MA appeals rules, including the AIC adjustment requirement, pursuant to 42 CFR 417.840. Section 1860D—4(h)(1) of the Act, provides that a Medicare Part D plan sponsor shall meet the requirements of paragraphs (4) and (5) of section 1852(g) of the Act with respect to benefits, including appeals and the application of the AIC adjustment requirement to Medicare Part D appeals.

A. Medicare Part A and Part B Appeals

The statutory formula for the annual adjustment to the AIC threshold amounts for ALJ hearings and judicial review of Medicare Part A and Part B appeals, set forth at section 1869(b)(1)(E) of the Act, is included in the applicable implementing regulations, 42 CFR 405.1006(b) and (c). The regulations at § 405.1006(b)(2) require the Secretary of Health and Human Services (the Secretary) to publish changes to the AIC threshold amounts in the **Federal Register**. In order to be entitled to a hearing before an ALJ, a party to a proceeding must meet the AIC requirements at § 405.1006(b). Similarly, a party must meet the AIC requirements at § 405.1006(c) at the time judicial review is requested for the court to have jurisdiction over the appeal (§ 405.1136(a)).

B. Medicare Part C/MA Appeals

Section 1852(g)(5) of the Act applies the AIC adjustment requirement to Medicare Part C appeals. The implementing regulations for Medicare Part C appeals are found at 42 CFR 422, subpart M. Specifically, sections 422.600 and 422.612 discuss the AIC threshold amounts for ALJ hearings and judicial review. Section 422.600 grants any party to the reconsideration (except the MA organization) who is dissatisfied with the reconsideration determination a right to an ALJ hearing as long as the amount remaining in controversy after reconsideration meets the threshold requirement established annually by the Secretary. Section 422.612 states, in part, that any party, including the MA organization, may request judicial review if the AIC meets the threshold requirement established annually by the Secretary.

C. Health Maintenance Organizations, Competitive Medical Plans, and Health Care Prepayment Plans

Section 1876(c)(5)(B) of the Act states that the annual adjustment to the AIC dollar amounts set forth in section 1869(b)(1)(E)(iii) of the Act applies to certain beneficiary appeals within the context of health maintenance organizations and competitive medical plans. The applicable implementing regulations for Medicare Part C appeals are set forth in 42 CFR 422, subpart M and apply to these appeals in accordance with 42 CFR 417.600(b). The Medicare Part C appeals rules also apply to health care prepayment plan appeals in accordance with 42 CFR 417.840.

D. Medicare Part D (Prescription Drug Plan) Appeals

The annually adjusted AIC threshold amounts for ALJ hearings and judicial review that apply to Medicare Parts A, B, and C appeals also apply to Medicare Part D appeals. Section 1860D–4(h)(1) of the Act regarding Part D appeals requires a prescription drug plan sponsor to meet the requirements set forth in sections 1852(g)(4) and (g)(5) of the Act, in a similar manner as MA organizations. The implementing regulations for Medicare Part D appeals can be found at 42 CFR 423, subparts M and U. More specifically, § 423.2006 of the Part D appeals rules discusses the AIC threshold amounts for ALJ hearings and judicial review. Sections 423.2002 and 423.2006 grant a Part D enrollee who is dissatisfied with the independent review entity (IRE) reconsideration determination a right to an ALJ hearing if the amount remaining in controversy after the IRE reconsideration meets the threshold amount established annually by the Secretary, and other requirements set forth in § 423.2002. Sections 423.2006 and 423.2136 allow a Part D enrollee to request judicial review of an ALJ or Medicare Appeals Council decision if the AIC meets the threshold amount established annually by the Secretary, and other requirements are met as set forth in these provisions.

II. Provisions of the Notice—Annual AIC Adjustments

A. AIC Adjustment Formula and AIC Adjustments

Section 1869(b)(1)(E)(iii) of the Act requires that the AIC threshold amounts be adjusted annually, beginning in January 2005, by the percentage increase in the medical care component of the CPI for all urban consumers (U.S. city average) for July 2003 to July of the year preceding the year involved and rounded to the nearest multiple of $10.

B. Calendar Year 2024

The AIC threshold amount for ALJ hearings will remain at $180 and the AIC threshold amount for judicial review will decrease from $1,850 for CY 2023 to $1,840 for CY 2024. These amounts are based on the 83.702 percent change in the medical care component of the CPI, which was at 297.600 in July 2003 and rose to 546.678 in July 2023. The AIC threshold amount for ALJ hearings changes to $183.70 based on the 83.702 percent increase over the initial threshold amount of

$100 established in 2003. In accordance with section 1869(b)(1)(E)(iii) of the Act, the adjusted threshold amounts are rounded to the nearest multiple of $10. Therefore, the CY 2024 AIC threshold amount for ALJ hearings is $180.00. The AIC threshold amount for judicial review changes to $1,837.02 based on the 83.702 percent increase over the initial threshold amount of $1,000. This amount was rounded to the nearest multiple of $10, resulting in the CY 2024 AIC threshold amount of $1,840.00 for judicial review.

C. Summary Table of Adjustments in the AIC Threshold Amounts

In the following table we list the CYs 2020 through 2024 threshold amounts.

	CY 2020	CY 2021	CY 2022	CY 2023	CY 2024
ALJ Hearing	$170	$180	$180	$180	$180
Judicial Review	1,670	1,760	1,760	1,850	1,840

III. Collection of Information Requirements

This document announces the annual adjustment in the AIC threshold amounts. It does not impose any ''collection of information'' requirements as defined under 5 CFR 1320.3(c). Consequently, the notice is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Vanessa Garcia, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Vanessa Garcia,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2023–21500 Filed 9–28–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10718, CMS–10142 and CMS–10540]

Agency Information Collection Activities: Proposed Collection; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by November 28, 2023.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number:____ Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10718 Model Medicare Advantage and Medicare Prescription Drug Plan Individual Enrollment Request Form

CMS–10142 Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP)

CMS–10540 Quality Improvement Strategy Implementation Plan, Progress Report, and Modification Summary Supplement Forms

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision with change to the currently approved collection; *Title of Information Collection:* Model Medicare Advantage and Medicare Prescription Drug Plan Individual Enrollment Request Form; *Use:* The enrollment form is considered a ''model'' under Medicare regulations at §§ 422.2262 and 423.2262, for purposes of

communication and marketing review and approval; therefore, MA and Part D plans are able to modify the language, content, format, or order of the enrollment form. The model enrollment form includes the minimal amount of information to process the enrollment, located in Section 1 of the MA/PDP enrollment form, and other limited information, in Section 2, that the sponsor is required (*i.e.* race and ethnicity data, accessible format preference) or chooses (*i.e.* premium payment information) to provide to the beneficiary.

CMS expects MA and PDP organizations to ensure the enrollment form complies with CMS' instructions regarding content and format. New and current enrollees that utilize the enrollment form to elect an MA or Part D plan must acknowledge the requirement to: (1) maintain Medicare Part A and B to stay in MA, or Part A or B to stay in Part D; (2) reside in the plan's service area; (3) make a valid request during a valid election period; (4) follow plan rules; (5) consent to the disclosure and exchange of information between the plan and CMS; and (6) enroll in only one Medicare health plan and that enrollment in the MA or Part D plan automatically disenrolls them from any other Medicare health plan and prescription drug plan.

CMS will use this information to: track beneficiary enrollment, including tracking patterns in enrollment by race and ethnicity, sexual orientation, and gender identity over time; to identify, monitor, and develop effective and efficient strategies and incentives to reduce and eliminate health and health care inequities; to validate existing race and ethnicity imputation methods; and to ensure that clinically appropriate and equitable care (in terms of payment, access and quality) is consistently provided to all Medicare beneficiaries. *Form Number:* CMS–10718 (OMB control number: 0938–0832); *Frequency:* Occasionally; *Affected Public:* Individuals and Households, Private sector—(Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 19,815,897; Total *Annual Responses:* 39,632,597; *Total Annual Hours:* 10,557,541. (For policy questions regarding this collection contact AnhViet Nguyen at 410–786–4548).

2. *Type of Information Collection Request:* Revision with change to the currently approved collection; *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP; *Use:* Medicare Advantage organizations (MAO) and Prescription Drug Plans (PDP) are required to submit an actuarial pricing ''bid'' for each plan offered to Medicare beneficiaries for approval by CMS. The MAOs and PDPs use the Bid Pricing Tool (BPT) software to develop their actuarial pricing bid. The competitive bidding process defined by the ''The Medicare Prescription Drug, Improvement, and Modernization Act'' (MMA) applies to both the MA and Part D programs. It is an annual process that encompasses the release of the MA rate book in April, the bid's that plans submit to CMS in June, and the release of the Part D and RPPO benchmarks, which typically occurs in August. *Form Number:* CMS–10142 (OMB control number: 0938–0832); *Frequency:* Annually; *Affected Public:* Private sector—(Business or other for-profits and Not-for-profit institutions); 555; *Total Annual Responses:* 4,995; *Total Annual Hours:* 149,850 (For policy questions regarding this collection contact Rachel Shevland at 410–786–3026).

3. *Type of Information Collection Request:* Extension of a previously approved collection; *Title of Information Collection:* Quality Improvement Strategy Implementation Plan, Progress Report, and Modification Summary Supplement Forms; *Use:* Section 1311(c)(1)(E) of the Affordable Care Act requires qualified health plans (QHPs) offered through an Exchange must implement a quality improvement strategy (QIS) as described in section 1311(g)(1). Section 1311(g)(3) of the Affordable Care Act specifies the guidelines under Section 1311(g)(2) shall require the periodic reporting to the applicable Exchange the activities that a qualified health plan has conducted to implement a strategy as described in section 1311(g)(1). CMS intends to have QHP issuers complete the appropriate QIS forms annually for implementation and progress reporting of their quality improvement strategies. The QIS forms will include topics to assess an issuer's compliance in creating a payment structure that provides increased reimbursement or other incentives to improve the health outcomes of plan enrollees, prevent hospital readmissions, improve patient safety and reduce medical errors, promote wellness and health, and reduce health and health care disparities, as described in Section 1311(g)(1) of the Affordable Care Act.

QIS forms will allow: (1) the Department of Health & Human Services (HHS) to evaluate the compliance and adequacy of QHP issuers' quality improvement efforts, as required by Section 1311(c) of the Affordable Care Act, and (2) HHS will use the issuers' validated information to evaluate the issuers' quality improvement strategies for compliance with the requirements of Section 1311(g) of the Affordable Care Act. *Form Number:* CMS–10540 (OMB control number: 0938–1286); *Frequency:* Annually; *Affected Public:* Public sector (Individuals and Households), Private sector (Business or other for-profits and not-for-profit institutions); *Number of Respondents:* 250; Total *Annual Responses:* 250; *Total Annual Hours:* 4,933. (For policy questions regarding this collection contact Preeti Hans at 301.492.5144).

Dated: September 26, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–21523 Filed 9–28–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10710]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by October 30, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Generic Clearance for Improving Customer Experience (OMB Circular A–11, Section 280 Implementation); *Use:* Whether seeking a loan, Social Security benefits, veterans benefits, or other services provided by the Federal Government, individuals and businesses expect Government customer services to be efficient and intuitive, just like services from leading private-sector organizations. Yet the 2016 American Consumer Satisfaction Index and the 2017 Forrester Federal Customer Experience Index show that, on average, Government services lag nine percentage points behind the private sector.

A modern, streamlined and responsive customer experience means: raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership. To support this, OMB Circular A–11 Section 280 established government-wide standards for mature customer experience organizations in government and measurement. To enable Federal programs to deliver the experience taxpayers deserve, they must undertake three general categories of activities: conduct ongoing customer research, gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.,* in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. The Centers for Medicare and Medicaid Services (CMS) will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps will be taken to ensure anonymity of respondents in each activity covered by this request.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps, and reports and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on performance.gov to help build transparency and accountability of Federal programs to the customers they serve.

CMS will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. CMS may also utilize observational techniques to collect this information.

Form Number: CMS–10710 (OMB control number: 0938–1382); *Frequency:* Occasionally; *Affected Public:* Individuals or Households; Private Sector (business or other for-profits, not-for-profit institutions), State, Local or Tribal governments; Federal government; and Universities; *Number of Respondents:* 1,001,750; *Number of Responses:* Varied, dependent upon the data collection method used. The possible response time to complete a questionnaire or survey may be 3 minutes or up to 2 hours to participate in an interview.; *Total Annual Hours:* 51,175.

Dated: September 26, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–21488 Filed 9–28–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–1561 and CMS–1561A]

Agency Information Collection Activities: Proposed Collection; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by November 28, 2023.

ADDRESSES: When commenting, please reference the document identifier or

OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–1561/1561A Health Insurance Benefit Agreement

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Health Insurance Benefit Agreement; *Use:* The CMS–1561 form applies to specific types of health care providers and opioid treatment programs and the CMS–1561A form applies to rural health clinics (RHCs). The CMS–1561 and CMS–1561A forms are health insurance benefits agreements that are essential for the Centers for Medicare and Medicaid Services (CMS) to ensure that applicants to the Medicare program have made a binding commitment to comply with all applicable Federal requirements. The CMS–1561/1561A forms are essential in that they allow CMS to ensure that applicants are in compliance with the requirements. Applicants will be required to sign the completed form and provide operational information to CMS to assure that they continue to meet the requirements after approval. The collection is made only once, when the provider or RHC submits their application for participation in Medicare by signing the completed CMS–1561 or CMS–1561A form (as applicable). *Form Number:* CMS–1561/1561A (OMB control number: 0938–0832); *Frequency:* Once only; *Affected Public:* Private sector—(Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 2,050; Total *Annual Responses:* 2,050; *Total Annual Hours:* 2,050. (For policy questions regarding this collection contact Caroline Gallaher at 410–786–8705).

Dated: September 25, 2023

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–21334 Filed 9–28–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3383–N2]

Clinical Laboratory Improvement Amendments of 1988 Exemption of Laboratories Licensed by the State of Washington; Exemption Period Extension

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

ACTION: Notice; exemption period extension.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) announce the extension of the Clinical Laboratory Improvement Amendments of 1988 (CLIA) exemption period for the State of Washington. The exemption period is extended for 6 months, that is until April 2, 2024.

DATES: The exemption granted by this notice is effective from October 2, 2023 to April 2, 2024.

FOR FURTHER INFORMATION CONTACT: Mary Hasan, (410) 786–6480.

SUPPLEMENTARY INFORMATION: In the ''Medicare, Medicaid, and CLIA Programs; Clinical Laboratory Improvement Amendments of 1988 Exemption of Laboratories Licensed by the State of Washington'' notice that appeared in the September 30, 2019 **Federal Register** (84 FR 51591), we announced that laboratories located in and licensed by the State of Washington that possess a valid license under the Medical Test Site law, Chapter 70.42 of the Revised Code of Washington, are exempt from the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA) for a period of 4 years. This period expires on October 2, 2023. Pending re-approval of Washington State's CLIA exemption period, we are extending Washington State's current CLIA exemption period for 6 months, that is until April 2, 2024.

The Administrator of CMS, Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Chyana Woodard, who is the **Federal Register** Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Chyana Woodard,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2023–21460 Filed 9–28–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–3900]

Graft-Versus-Host Diseases: Developing Drugs, Biological Products, and Certain Devices for Prevention or Treatment; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Graft-versus-Host Diseases: Developing Drugs, Biological Products, and Certain Devices for Prevention or Treatment.'' The purpose of this guidance is to assist sponsors in the clinical development of drugs, biological products, and certain devices for the prevention or treatment of acute graft-versus-host disease (aGVHD) or chronic graft-vs-host disease (cGVHD). Specifically, this guidance addresses FDA's current thinking regarding the overall clinical development program and critical design elements for early and late phase trials for the intended populations. This guidance focuses on clinical trial design, statistical analysis, or other issues specific to aGVHD or cGVHD, and it does not contain a discussion of the general principles regarding statistical analysis, clinical trial design, or drug development. Additionally, this guidance is not intended to provide advice on the technical aspects of therapeutic or cell-processing devices.

DATES: Submit either electronic or written comments on the draft guidance by November 28, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–D–3900 for ''Graft-versus-Host Diseases: Developing Drugs and Biological Products for Prevention or Treatment.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; or 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 requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Robert Le, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2124, Silver Spring, MD 20993, 240–402–8320, or Anne Taylor, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7256, Silver Spring, MD 20993, 240–402–5683.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Graft-versus-Host Diseases: Developing Drugs, Biological Products, and Certain Devices for Prevention or Treatment.'' The purpose of this guidance is to assist sponsors in the clinical development of drugs, biological products, and certain devices for the prevention or treatment of aGVHD or cGVHD. Specifically, this guidance addresses FDA's current thinking regarding the overall clinical development program and critical design elements for early and late phase trials for the intended populations.

aGVHD and cGVHD are clinical syndromes that may arise after allogeneic hematopoietic stem cell transplantation as a result of

immunocompetent donor cells recognizing and reacting to disparity with major or minor histocompatibility antigens on recipient tissues. The classical approach to prevention of GVHD involves pharmacological or physical methods to delete alloreactive T cells in the immediate peritransplant setting with or without additional drugs to prevent activation of naive T cells. Should aGVHD or cGVHD occur despite these measures, treatment has depended largely on drugs that impair T cells. Further basic science investigations have elucidated the molecular mechanisms behind the clinical manifestations of aGVHD and cGVHD, including cytokines, the innate immune system, and components of the adaptive immune system other than T cells. These scientific advances have provided opportunities for development of biomarkers to identify the specific immune dysfunction present in an individual patient and for development of drugs to modulate the immune system with precision rather than to just suppress the immune system globally.

Given the complexity of the clinical manifestation of aGVHD and cGVHD and the potential for a paradigm shift in the management of GVHD, this guidance provides recommendations regarding the design and conduct of clinical trials and the types of supporting data that could facilitate efficient development of drugs and/or certain devices for the prevention or treatment of aGVHD or cGVHD. This guidance also provides recommendations on what should be included in the marketing application to facilitate review.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Graft-versus-Host Diseases: Developing Drugs, Biological Products, and Certain Devices for Prevention or Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001; the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; and the collections of information in 21 CFR parts 50 and 56 have been approved under OMB control number 0910–0130.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: September 26, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–21524 Filed 9–28–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–0814]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Infant Formula Recalls

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by October 30, 2023.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0256. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Infant Formula Requirements Under the Federal Food, Drug, and Cosmetic Act—21 CFR Parts 106 and 107

OMB Control Number 0910–0256—Revision

This information collection supports FDA regulations, and associated Agency forms and guidance, pertaining to infant formula requirements. Statutory provisions for infant formula under the Federal Food, Drug, and Cosmetic Act (FD&C Act) were enacted to protect the health of infants and include specific current good manufacturing practice, labeling (disclosure), and a number of reporting and recordkeeping requirements. Section 412 of the FD&C Act (21 U.S.C. 350a) requires manufacturers of infant formula to establish and document the adherence to quality control procedures, notify FDA when a batch of infant formula that has left the manufacturers' control may be adulterated or misbranded, and keep records of infant formula distribution. Notification requirements are also included in the regulations regarding the quantitative formulation of the infant formula; a description of any reformulation or change in processing; assurances that the formula will not be marketed until regulatory requirements are met as demonstrated by specific testing; and assurances that manufacturing processes comply with the regulations. The regulations are found in 21 CFR part 106: Infant Formula Requirements Pertaining to Current Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Records and Reports, and Notifications; and part 107 (21 CFR part 107): Infant Formula.

In the **Federal Register** of October 6, 2022 (87 FR 60689), we provided notice communicating updates to the information collection and invited public comment on the proposed

collections of information. No comments were received. On our own initiative, for efficiency of Agency operations, we are again revising the information collection to include related activities applicable to regulations in part 107, subpart E (21 CFR 107.200 through 107.280) pertaining to infant formula recalls. These information collections are currently approved in OMB control number 0910–0188. Specifically, 21 CFR 107.230 requires manufacturing firms conducting infant formula recalls to:

(1) evaluate the hazard to human health;

(2) devise a written recall strategy;

(3) promptly notify each affected direct account (customer) about the recall; and

(4) furnish the appropriate FDA district office with copies of these documents.

If the recalled formula presents a risk to human health, the recalling firm must also request that each establishment that sells the recalled formula post (at point of purchase) a notice of the recall and provide FDA with a copy of the notice.

Similarly, Agency regulations in 21 CFR 107.240 require recalling firms to:

(1) notify the appropriate FDA district office of the recall by telephone within 24 hours;

(2) submit a written report to that office within 14 days; and

(3) submit a written status report at least every 14 days until the recall is terminated. Before terminating a recall, recalling firms are required to submit a recommendation for termination of the recall to the appropriate FDA district office and wait for written FDA concurrence (21 CFR 107.250). Where the recall strategy or implementation is determined to be deficient, FDA may require the firm to change the extent of the recall, carry out additional effectiveness checks, and issue additional notifications (21 CFR 107.260). Finally, to facilitate identifying the location of the product being recalled, the recalling firm is required to maintain distribution records for at least 1 year after the expiration of the shelf life of the infant formula (§ 107.280 (21 CFR 107.280)).

We estimate the burden of the collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
107.230; Elements of infant formula recall	2	1	2	4,450	8,900
107.240; Notification requirements	2	1	2	1,482	2,964
107.250; Termination of infant formula recall	2	1	2	120	240
107.260; Revision of an infant formula recall	1	1	1	625	625
Total					12,729

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting and third-party disclosure burden estimates are based on current available data showing eight manufacturers of infant formula and that there have been, on average, two infant formula recalls per year for the past 3 years. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities. Accordingly, because we believe that associated records are maintained as a usual and customary part of normal business activities, we include no separate burden estimate for recordkeeping requirements found in § 107.280.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
107.230; Elements of infant formula recall	2	1	2	50	100
107.260; Revision of an infant formula recall	1	1	1	25	25
Total					125

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Although we have increased the number of respondents to the information collection since our last request for OMB approval, we have made no adjustments to the burden we estimate for the time necessary to complete activities associated with infant formula recalls.

Dated: September 26, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–21432 Filed 9–28–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–3999]

Fee Rate for Using a Priority Review Voucher in Fiscal Year 2024

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the fee rate for using a priority review voucher for fiscal year (FY) 2024. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended, authorizes FDA to determine and collect priority review user fees for certain applications for review of human drug or biological products when those applications use a tropical disease, rare pediatric disease, or material threat medical countermeasure (MCM) priority review voucher. These vouchers are awarded to the sponsors of tropical disease, rare pediatric disease, or material threat MCM product applications, respectively, that meet the requirements of the FD&C Act, upon FDA approval of such applications. The amount of the fee for using a priority review voucher is determined each fiscal year, based on the difference between the average cost incurred by FDA to review a human drug application designated as priority review in the previous fiscal year, and the average cost incurred in the review of an application that is not subject to priority review in the previous fiscal year. This notice establishes the FY 2024 priority review fee rate applicable to submission of eligible applications for review of human drug or biological products using a rare pediatric disease, material threat MCM, or tropical disease priority review voucher and outlines the payment procedures for such fees.

DATES: This rate is effective on October 1, 2023, and will remain in effect through September 30, 2024.

FOR FURTHER INFORMATION CONTACT: Olufunmilayo Ariyo, Office of Financial Management, Food and Drug Administration, 4041 Powder Mill Rd., 6th Floor, Beltsville, MD 20705–4304, 240–402–4989; or the User Fees Support Staff at *OO-OFBAP-OFM-UFSS-Government@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Establishment of the Tropical Disease Priority Review Voucher

Section 1102 of the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85) added section 524 to the FD&C Act (21 U.S.C. 360n). In section 524 of the FD&C Act, Congress encouraged development of new human drug and biological products for prevention and treatment of tropical diseases by offering additional incentives for obtaining FDA approval of such products. Under section 524 of the FD&C Act, the sponsor of an eligible human drug application for a tropical disease (as defined in section 524(a)(3) of the FD&C Act) shall receive a priority review voucher upon approval of the tropical disease product application (as defined in section 524(a)(4) of the FD&C Act).

B. Establishment of the Rare Pediatric Disease Priority Review Voucher

Section 908 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) added section 529 of the FD&C Act (21 U.S.C. 360ff). In section 529 of the FD&C Act, Congress encouraged development of new human drugs and biological products for prevention and treatment of certain rare pediatric diseases by offering additional incentives for obtaining FDA approval of such products. Under section 529 of the FD&C Act, the sponsor of an eligible human drug for a rare pediatric disease (as defined in section 529(a)(3)) shall receive a priority review voucher upon approval of the rare pediatric disease product application (as defined in section 529(a)(4) of the FD&C Act).

C. Establishment of the Material Threat MCM Priority Review Voucher

Section 3086 of the 21st Century Cures Act (Pub. L. 114–255) added section 565A to the FD&C Act (21 U.S.C. 360bbb–4a). In section 565A of the FD&C Act, Congress encouraged development of material threat MCMs by offering additional incentives for obtaining FDA approval of such products. Under section 565A of the FD&C Act, the sponsor of an eligible material threat MCM application (as defined in section 565A(a)(4)) shall receive a priority review voucher upon approval of the material threat MCM application.[1]

[1] Although under section 565A(g) of the FD&C Act, material threat MCM priority review vouchers may not be awarded after October 1, 2023, this ''sunset'' of authority to award vouchers does not affect the ability to use material threat MCM priority review vouchers that have already been issued.

D. Transferability of the Priority Review Voucher

The recipient of a priority review voucher may either use the voucher for a future human drug application submitted to FDA under section 505(b)(1) of the FD&C Act (21 U.S.C. 355(b)(1)) or section 351(a) of the Public Health Service Act (PHS Act) (42 U.S.C. 262(a)), or transfer (including by sale) the voucher to another party. The voucher may be transferred repeatedly until it ultimately is used for a human drug application submitted to FDA under section 505(b)(1) of the FD&C Act or section 351(a) of the PHS Act. As further described below, a priority review is a review conducted with a Prescription Drug User Fee Act (PDUFA) goal date of 6 months after the receipt or filing date, depending on the type of application. Information regarding review goals for FY 2024 is available at: *https://www.fda.gov/media/151712/download.*

The sponsor that uses a priority review voucher is entitled to a priority review of its eligible human drug application, but must pay FDA a priority review user fee in addition to any other fee required by PDUFA. FDA published information on its website about how the priority review voucher program operates.[2] [3] [4]

This notice establishes the FY 2024 priority review fee rate for use of tropical disease, rare pediatric disease, and material threat MCM priority review vouchers at $1,314,206 and outlines FDA's process for implementing the collection of priority review user fees. This rate is effective on October 1, 2023, and will remain in effect through September 30, 2024.

II. Priority Review User Fee Rate for FY 2024

FDA interprets section 524(c)(2) (tropical disease priority review user fee), section 529(c)(2) (rare pediatric disease priority review user fee), and section 565A(c)(2) (material threat MCM priority review user fee) of the FD&C Act as requiring that FDA determine the amount of each priority review user fee

[2] Information regarding the tropical disease priority review voucher program is available at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/tropical-disease-priority-review-vouchers.*

[3] Information regarding the rare pediatric disease priority review voucher program, visit: *https://www.fda.gov/Drugs/DevelopmentApprovalProcess/DevelopmentResources/ucm375479.htm.*

[4] Information regarding the material threat MCM priority review voucher program is available at: *https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/21st-century-cures-act-mcm-related-cures-provisions.*

for each fiscal year based on the difference between the average cost incurred by FDA in the review of a human drug application subject to priority review in the previous fiscal year, and the average cost incurred by FDA in the review of a human drug application that is not subject to priority review in the previous fiscal year.

A priority review is a review conducted within a timeframe prescribed in FDA commitments for such reviews made in connection with PDUFA reauthorization for FYs 2023–2027, known as PDUFA VII. For the FYs 2023 through 2027, FDA has committed to a goal date to review and act on 90 percent of the applications granted priority review status within the expedited timeframe of 6 months after receipt or filing date (filing date for new molecular entity (NME) new drug application (NDA) and original biologics license application (BLA) submissions; receipt date for priority non-NME original NDA submissions). Normally, an application for a human drug or biological product will qualify for priority review if the product is intended to treat a serious condition and, if approved, would provide a significant improvement in safety or effectiveness. An application that does not receive a priority designation receives a standard review. A priority review involves a more intensive level of effort and a higher level of resources than a standard review.

FDA is setting a fee for FY 2024, which is to be based on standard cost data from the previous fiscal year, FY 2023. However, the FY 2023 submission cohort has not been closed out yet, thus the cost data for FY 2023 are not complete. The latest year for which FDA has complete cost data is FY 2022. Furthermore, because FDA has never tracked the cost of reviewing applications that get priority review as a separate cost subset, FDA estimated this cost based on other data that the Agency has tracked. The Agency expects all applications that received priority review would contain clinical data. The application categories with clinical data for which FDA tracks the cost of review are (1) NDAs for an NME with clinical data and (2) BLAs.

The total cost for FDA to review NME NDAs with clinical data and BLAs in FY 2022 was $208,593,080. There was a total of 81 applications in these two categories (41 NME NDAs with clinical data and 40 BLAs). (*Note:* These numbers exclude the President's Emergency Plan for AIDS Relief NDAs; no investigational new drug review costs are included in this amount.) Of these applications, 44 (19 NDAs and 25 BLAs) received priority review and the remaining 37 (22 NDAs and 15 BLAs) received standard reviews. Because a priority review compresses a review that ordinarily takes 10 months into 6 months, FDA estimates that a multiplier of 1.67 (10 months divided by 6 months) should be applied to nonpriority review costs in estimating the effort and cost of a priority review as compared to a standard review. This multiplier is consistent with published research on this subject, which supports a priority review multiplier in the range of 1.48 to 2.35 (Ref. 1). Using FY 2022 figures, the costs of a priority and standard review are estimated using the following formula:

$$(44\ \alpha \times 1.67) + (37\ \alpha) = \$208{,}593{,}080$$

where ''α'' is the cost of a standard review and ''α times 1.67'' is the cost of a priority review. Using this formula, the cost of a standard review for NME NDAs and BLAs is calculated to be $1,888,062 (rounded to the nearest dollar) and the cost of a priority review for NME NDAs and BLAs is 1.67 times that amount, or $3,153,064 (rounded to the nearest dollar). The difference between these two cost estimates, or $1,265,002, represents the incremental cost of conducting a priority review rather than a standard review.

For the FY 2024 fee, FDA will need to adjust the FY 2022 incremental cost by the average amount by which FDA's average costs increased in the 3 years prior to FY 2023, to adjust the FY 2022 amount for cost increases in FY 2023. That adjustment, published in the **Federal Register** setting the FY 2024 PDUFA fees, is 3.8896 percent for the most recent year, not compounded. Increasing the FY 2022 incremental priority review cost of $1,265,002 by 3.8896 percent (or 0.038896) results in an estimated cost of $1,314,206 (rounded to the nearest dollar). This is the priority review user fee amount for FY 2024 that must be submitted with a priority review voucher for a human drug application in FY 2024, in addition to any PDUFA fee that is required for such an application.

III. Fee Rate Schedule for FY 2024

The fee rate for FY 2024 is set in table 1:

TABLE 1—PRIORITY REVIEW FEE SCHEDULE FOR FY 2024

Fee category	Priority review fee rate for FY 2024
Application submitted with a tropical disease priority review voucher in addition to the normal PDUFA fee	$1,314,206
Application submitted with a rare pediatric disease priority review voucher in addition to the normal PDUFA fee	1,314,206
Application submitted with a material threat MCM priority review voucher in addition to the normal PDUFA fee	1,314,206

IV. Implementation of Priority Review User Fee

Sections 524(c)(4)(B), 529(c)(4)(B), and 565A(c)(4)(B) of the FD&C Act specify that the human drug application for which the sponsor requests the use of a priority review voucher will be considered incomplete if the priority review user fee and all other applicable user fees are not paid in accordance with FDA payment procedures. In addition, FDA may not grant a waiver, exemption, reduction, or refund of any fees due and payable under these sections of the FD&C Act (see sections 524(c)(4)(C), 529(c)(4)(C), and 565A(c)(4)(C)). FDA may not collect priority review voucher fees for any fiscal year ''except to the extent provided in advance in appropriation Acts.'' (Section 524(c)(5)(B), 529(c)(5)(B), and 565A(c)(6) of the FD&C Act.)

The priority review fee established in the new fee schedule must be paid for any application received on or after October 1, 2023, submitted with a priority review voucher. As noted in section II, this fee must be paid in addition to any PDUFA fee that is required for the application. The sponsor would need to follow normal requirements for timely payment of any PDUFA fee for the human drug application. For more information regarding payment of PDUFA application fees generally, please see section 736(a)(1) of the FD&C Act.[5]

[5] Additional information is also available in the guidance for industry entitled *Assessing User Fees Under the Prescription Drug User Fee Amendments of 2022*. FDA updates guidance periodically. To make sure you have the most recent version of a guidance, check the FDA Drugs guidance web page at: *https://www.fda.gov/Drugs/*

A. Priority Review Voucher Notification of Intent Requirement

All three priority review vouchers have a notification requirement. To comply with this requirement, the sponsor must notify FDA not later than 90 days prior to submission of the human drug or biological application that is the subject of a priority review voucher of an intent to submit the human drug application, including the estimated submission date. See sections 524(b)(4), 529(b)(4)(B), and 565A(b)(3)(A) of the FD&C Act.

B. Priority Review Voucher User Fee Due Date

Under sections 524(c)(4)(A) (tropical disease priority review user fee) and 565A(c)(4)(A) (material threat MCM priority review user fee) of the FD&C Act, the priority review user fee is due (*i.e.,* the obligation to pay the fee is incurred) upon submission of a human drug application for which the priority review voucher is used.[6]

Under section 529(c)(4)(A) (rare pediatric disease priority review user fee) of the FD&C Act, the priority review user fee is due (*i.e.,* the obligation to pay the fee is incurred) when a sponsor notifies FDA of its intent to use the voucher. Upon receipt of this notification, FDA will issue an invoice to the sponsor for the rare pediatric disease priority review voucher fee. The invoice will include instructions on how to pay the fee via wire transfer, check, or online payments.

V. Fee Payment Options and Procedures

Payment must be made in U.S. currency by electronic check, check, bank draft, wire transfer, credit card, or U.S. postal money order payable to the order of the Food and Drug Administration. The preferred payment method is online using electronic check (Automated Clearing House (ACH) also known as eCheck). Secure electronic payments can be submitted using the User Fees Payment Portal at *https://userfees.fda.gov/pay.* (*Note:* Only full payments are accepted. No partial payments can be made online.) Once you search for your invoice, select ''Pay Now'' to be redirected to *Pay.gov.* Note that electronic payment options are based on the balance due. Payment by credit card is available for balances that are less than $25,000. If the balance exceeds this amount, only the ACH option is available. Payments must be made using U.S. bank accounts as well as U.S. credit cards.

FDA has partnered with the U.S. Department of the Treasury to use *Pay.gov,* a web-based payment application, for online electronic payment. The *Pay.gov* feature is available on the FDA website after the user fee identification (ID) number is generated.

A. Paper Check Payment Process

If paying by paper check, the sponsor should include on the check the appropriate reference number and the type of review requested. For rare pediatric disease priority review, please use the invoice number issued by the FDA. The invoice number is issued by the FDA upon receipt of the rare pediatric disease priority review notification (see section IV.A). For tropical disease priority review and for material threat MCM priority review, please use the user fee ID number generated for the *Pay.gov* feature.

Tropical disease priority review: A paper check for a tropical disease priority review fee should include the user fee ID number and the words: ''Tropical Disease Priority Review''.

Rare pediatric disease priority review: A paper check for a rare pediatric disease priority review fee should include the invoice number followed by the words: ''Rare Pediatric Disease Priority Review''.

Material threat MCM priority review: A paper check for a material threat MCM priority review fee should include the user fee ID number and the words: ''Material Threat Medical Countermeasure Priority Review'' (or ''MCMPR'').

All paper checks should be in U.S. currency from a U.S. bank made payable and mailed to: Food and Drug Administration, P.O. Box 979107, St. Louis, MO 63197–9000.

If checks are sent by a courier that requests a street address, the courier can deliver the checks to: U.S. Bank, Attention: Government Lockbox 979107, 1005 Convention Plaza, St. Louis, MO 63101. Please note that this address is valid only until October 5, 2023. Beginning October 6, 2023, all checks sent by courier must be mailed to: U.S. Bank, Attention: Government Lockbox 979107, 3180 Rider Trail S, Earth City, MO 63045. (*Note:* This U.S. Bank address is for courier delivery only. If you have any questions concerning courier delivery, contact the U.S. Bank at 800–495–4981. This telephone number is only for questions about courier delivery.) The FDA post office box number (P.O. Box 979107) must be written on the check. If needed, FDA's tax identification number is 53–0196965.

B. Wire Transfer Payment Process

If paying by wire transfer, please reference your invoice number/unique user fee ID number when completing your transfer. (For rare pediatric disease priority review, please use your invoice number issued by the FDA upon receipt of notification. For all other priority reviews, please use the unique user fee ID number generated for the *Pay.gov* feature.) The originating financial institution may charge a wire transfer fee. If the financial institution charges a wire transfer fee, it is required to add that amount to the payment to ensure that the invoice is paid in full. The account information is as follows: U.S. Dept. of the Treasury, TREAS NYC, 33 Liberty St., New York, NY 10045, Account Number: 75060099, Routing Number: 021030004, SWIFT: FRNYUS33.

VI. Reference

The following reference is on display with the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is not available electronically at *https://www.regulations.gov* as this reference is copyright protected. FDA has verified the website address, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Ridley, D.B., H.G. Grabowski, and J.L. Moe, ''Developing Drugs for Developing Countries,'' *Health Affairs,* vol. 25, no. 2, pp. 313–324, 2006, available at: *https://www.healthaffairs.org/doi/full/10.1377/hlthaff.25.2.313.*

Dated: September 26, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–21513 Filed 9–28–23; 8:45 am]

BILLING CODE 4164–01–P

GuidanceComplianceRegulatoryInformation/Guidances/default.htm.

[6] In the case of ''rolling review'' of an application (as discussed in FDA's May 2014 guidance entitled *Expedited Programs for Serious Conditions—Drugs and Biologics,* available at: *https://www.fda.gov/files/drugs/published/Expedited-Programs-for-Serious-Conditions-Drugs-and-Biologics.pdf*) for which a tropical disease priority review voucher (PRV) or material threat MCM PRV is redeemed, the PRV fee is due upon submission of the final portion of the application, given that the Agency generally views ''submission of a human drug application'' (including as used in sections 524(c)(4)(A) and 565A(c)(4)(A)) to mean the submission of a complete application. Also see section 506(d) of the FD&C Act, relating to review of incomplete applications for approval of a fast track product.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–4045]

Antimicrobial Susceptibility Test System Devices—Updating Breakpoints in Device Labeling; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a final guidance for industry and FDA staff entitled ''Antimicrobial Susceptibility Test (AST) System Devices—Updating Breakpoints in Device Labeling.'' This guidance is intended to provide industry and FDA staff with information regarding updating susceptibility test interpretative criteria (STIC)/breakpoints and associated performance data in device labeling for antimicrobial susceptibility test (AST) system devices in response to breakpoint changes posted on the FDA-Recognized Antimicrobial Susceptibility Test Interpretative Criteria website (STIC website). This guidance is expected to facilitate the timely adoption of updated breakpoints in AST system devices, which helps to ensure device safety and effectiveness.

DATES: The announcement of the guidance is published in the **Federal Register** on September 29, 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–2023–D–4045 for ''Antimicrobial Susceptibility Test (AST) System Devices—Updating Breakpoints in Device Labeling.'' 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 ''Antimicrobial Susceptibility Test (AST) System Devices—Updating Breakpoints in Device Labeling'' to the Office of Policy, Center of 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 requests.

FOR FURTHER INFORMATION CONTACT: Ribhi Shawar, Center for Devices and Radiological Health, 10903 New Hampshire Ave., Bldg. 66, Rm. 3218, Silver Spring, MD 20993–0002, 301–796–6698.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry and FDA staff entitled ''Antimicrobial Susceptibility Test (AST) System Devices—Updating Breakpoints in Device Labeling.'' We are issuing this guidance consistent with our good guidance practices (GGP) regulation (21 CFR 10.115). We are implementing this guidance without prior public comment because we have determined that prior public participation is not feasible or appropriate (see 21 CFR 10.115(g)(2) and section 701(h)(1)(C)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(h)(1)(C)(i))). Specifically, we are not seeking prior comment because the guidance presents a less burdensome policy consistent with the public health and the urgent public health need for sponsors to update breakpoints for legacy AST system devices. Although

this guidance document is immediately in effect, it remains subject to comment in accordance with FDA's GGP regulation.

AST system devices are intended to determine the in vitro susceptibility of bacterial or fungal pathogens to different antimicrobial agents. Accurate results are essential for guiding the treatment of infections by clinicians and for monitoring the spread of antimicrobial resistant microorganisms. Generally, healthcare professionals rely on AST system devices to help choose an appropriate treatment, as STIC (also referred to as breakpoints) are the criteria used to interpret AST results.

Section 3044 of the 21st Century Cures Act, signed into law on December 13, 2016, added section 511A (21 U.S.C. 360a–2), ''Susceptibility Test Interpretive Criteria for Microorganisms,'' to the Federal Food, Drug, and Cosmetic Act and authorizes FDA to recognize, in whole or in part, a consensus standard that provides antimicrobial STIC or establish alternative STIC, and requires FDA to establish and maintain a dedicated website that contains a list of any appropriate new or updated STIC and standards.

This guidance describes approaches for AST system device sponsors to adopt updated breakpoints recognized on the STIC website (FDA-Recognized Antimicrobial Susceptibility Test Interpretative Criteria) and associated performance data in device labeling to facilitate the timely availability of devices with the most up-to-date STIC for patient care and public health. FDA believes that this guidance presents less burdensome approaches for AST system device sponsors to utilize predetermined change control plans (PCCPs) and breakpoint change protocols to update their device labeling to include adoption of updated breakpoints recognized on FDA's STIC website in a timely manner while helping to ensure device safety and effectiveness. This guidance provides recommendations on the marketing submission content for PCCPs for new AST system devices, describes an enforcement policy regarding applying such updates to ''legacy'' AST system devices (AST system devices that were reviewed and cleared by FDA and did not include a breakpoint change protocol), and clarifies the process for incorporating by reference a cleared PCCP or breakpoint change protocol into a new 510(k) submission for an AST system device.

This guidance supersedes Sections II.A and V of Updating Labeling for Susceptibility Test Information in Systemic Antibacterial Drug Products and Antimicrobial Susceptibility Testing Devices (June 2009).

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 ''Antimicrobial Susceptibility Test (AST) System Devices—Updating Breakpoints in Device Labeling.'' 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 ''Antimicrobial Susceptibility Test (AST) System Devices—Updating Breakpoints in Device Labeling'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00007019 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

21 CFR part or guidance	Topic	OMB control No.
800, 801, and 809	Medical Device Labeling Regulations	0910–0485
807, subpart E	Premarket notification	0910–0120
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation.	0910–0073
''Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program''.	Q-submissions; Pre-submissions	0910–0756

Dated: September 25, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–21407 Filed 9–28–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–3788]

Electronic Submission Template for Medical Device De Novo Requests; Draft 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 the draft guidance entitled ''Electronic Submission Template for Medical Device De Novo Requests.'' FDA is issuing this draft guidance to introduce submitters of De Novo requests to the Center for Devices and Radiological Health (CDRH) and Center for Biologics Evaluation and Research (CBER) to the current resources and associated content developed and made publicly available

to support De Novo electronic submissions to FDA. This draft guidance, when finalized, is intended to represent one of several steps in meeting FDA's commitment to the development of electronic submission templates to serve as guidance submission preparation tools for industry to improve submission consistency and enhance efficiency in the review process. This draft guidance is not final nor is it for implementation at this time.

DATES: Submit either electronic or written comments on the draft guidance by November 28, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand Delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–D–3788 for ''Electronic Submission Template for Medical Device De Novo Requests.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 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 draft guidance document entitled ''Electronic Submission Template for Medical Device De Novo Requests'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Rebecca Nipper, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1540, Silver Spring, MD 20993–0002, 301–796–6527 or Anne Taylor, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is issuing this draft guidance document to introduce submitters of De Novo requests [1] to CDRH and CBER to the current resources and associated content developed and made publicly available to support De Novo electronic submissions to FDA. This draft guidance is intended to represent one of several steps in meeting FDA's commitment to the development of electronic submission templates to serve as guided submission preparation tools for industry to improve submission consistency and enhance efficiency in the review process.[2] When finalized, this guidance will also facilitate the implementation of the FDA's mandate under section 745A(b) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 379k–1(b)), amended by section 207 of the FDA Reauthorization Act of 2017 (FDARA) (Pub. L. 115–52 [3]) to provide further standards for the submission by electronic format, a timetable for establishment of these further standards, and criteria for waivers of and exemptions from the requirements.

[1] See section 513(f)(2) of the FD&C Act (21 U.S.C. 360c(f)(2)) and 21 CFR part 860, subpart D.

[2] See 163 CONG. REC. S4729–S4736 (daily ed. August 2, 2017) (Food and Drug Administration User Fee Reauthorization), also available at *https://www.fda.gov/media/102699/download,* and 168 CONG. REC. S5194–S5203 (daily ed. September 28, 2022) (Food and Drug Administration User Fee Reauthorization), also available at *https://www.fda.gov/media/158308/download* and 168 CONG. REC. S5194–S5203 (daily ed. September 28, 2022) (Food and Drug Administration User Fee Reauthorization), also available at *https://www.fda.gov/media/158308/download.*

[3] *https://www.govinfo.gov/content/pkg/PLAW-115publ52/html/PLAW-115publ52.htm.*

FDA's guidance document ''Providing Regulatory Submissions for Medical Devices in Electronic Format—Submissions Under Section 745A(b) of the Federal Food, Drug, and Cosmetic Act'' [4] (hereafter referred to as the ''745A(b) device parent guidance'') provides a process for the development of templates to facilitate the preparation, submission, and review of regulatory submissions for medical devices solely in electronic format. As described in the 745A(b) device parent guidance, FDA plans to implement the requirements of section 745A(b)(3) of the FD&C Act with individual guidances specifying the formats for specific submissions and corresponding timetables for implementation. When finalized, this guidance will provide such information for De Novo electronic submissions solely in electronic format.

In section 745A(b) of the FD&C Act, Congress granted explicit statutory authorization to FDA to specify in guidance the statutory requirement for electronic submissions solely in electronic format by providing standards, a timetable, and criteria for waivers and exemptions. To the extent that this draft guidance provides such requirements under section 745A(b)(3) of the FD&C Act (*i.e.,* standards, timetable, criteria for waivers of and exemptions), indicated by the use of the mandatory words, such as must or required, this document is not subject to the usual restrictions in FDA's good guidance practice regulations, such as the requirement that guidances not establish legally enforceable responsibilities (see § 10.115(d) (21 CFR 10.115(d)).) To the extent that this draft guidance describes recommendations that are not standards, timetable, criteria for waivers of, or exemptions under section 745A(b)(3) of the FD&C Act, it is being issued consistent with FDA's good guidance practices regulation (§ 10.115).

The draft guidance, when finalized, will represent the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This draft guidance, when finalized, will contain both binding and nonbinding provisions.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents* or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics.* Persons unable to download an electronic copy of ''Electronic Submission Template for Medical Device De Novo Requests'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00021027 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

21 CFR part	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
860, subpart D	De Novo classification process	0910–0844
800, 801, and 809	Medical Device Labeling Regulations	0910–0485

Dated: September 25, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–21405 Filed 9–28–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–2781]

Agency Information Collection Activities; Proposed Collection; Comment Request; Data To Support Drug Product Communications as Used by the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on a generic clearance to collect information to support communications used by FDA about drug products.

DATES: Either electronic or written comments on the collection of information must be submitted by November 28, 2023.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 28, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

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

[4] *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/providing-regulatory-submissions-medical-devices-electronic-format-submissions-under-section-745ab.*

comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–N–2781 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Data To Support Drug Product Communications as Used by the Food and Drug Administration.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' 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.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Data To Support Drug Product Communications as Used by the Food and Drug Administration

OMB Control Number 0910–0695—Extension

This information collection supports Agency outreach and other proactive communication efforts. Evaluating communication messages and supporting materials in advance of a communication campaign provides an important role in improving FDA communications as they allow for an in-depth understanding of individuals' knowledge, attitudes, beliefs, motivations, feelings, and behaviors. Such evaluations are critical in helping FDA develop public health communications that meet the needs and desires of its many diverse target audiences.

We intend to use the following methods with general public health consumers and healthcare professionals in our efforts: individual in-depth interviews, focus group discussions, intercept interviews, self-administered surveys, gatekeeper surveys, all on a voluntary basis. The methods to be used serve the narrowly defined need for direct and informal opinion on a specific topic and, as a qualitative and/or quantitative research tools, have two major purposes: (1) to obtain information that is useful for developing variables and measures for formulating the basic objectives of risk communication campaigns and (2) to assess the potential effectiveness of messages and materials in reaching and successfully communicating with their intended audiences. We will use these methods to test and refine our ideas and to help develop messages and other communications but will generally conduct further research before making important decisions, such as adopting new policies and allocating or redirecting significant resources to support these policies.

We will use this qualitative and/or quantitative research to test messages about regulated drug products on a

variety of subjects related to consumer, patient, or healthcare professional perceptions and about use of drug products and related materials, including but not limited to: (1) direct-to-consumer prescription drug promotion; (2) labeling and information about prescription and over-the-counter drugs; (3) patient medication guides; (4) safety and risk communications; (5) online sale of medical products; and (6) consumer and professional education. Annually, we project about 75 communication studies using the variety of research methods listed in this document. FDA is requesting an extension of these burden hours so as not to restrict its ability to gather information on public opinion for its regulatory and communications programs.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Interviews/Surveys	45,000	1	45,000	0.75 (45 minutes)	33,750

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection has changed since the last OMB approval. We attribute this change to screening more potential participants to obtain the very specialized and hard-to-recruit populations often needed for these studies, *e.g.,* vulnerable populations, and patients taking or users of a specific drug or type of drug, such as opioids and other controlled substances, biosimilars, etc.

Dated: September 26, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–21419 Filed 9–28–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–D–0996]

Technical Considerations for Medical Devices With Physiologic Closed-Loop Control Technology; 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 ''Technical Considerations for Medical Devices with Physiologic Closed-Loop Control Technology.'' Physiologic closed-loop control (PCLC) devices are intended for automatic control of a physiologic variable(s) through delivery of energy or substance using feedback from physiologic sensors. PCLC devices may play an important role in reducing cognitive overload, minimizing human error, and enhancing medical care during emergency response and medical surge situations. This guidance provides technical considerations for PCLC technology in order to promote development and availability of safe and effective PCLC medical devices.

DATES: The announcement of the guidance is published in the **Federal Register** on September 29, 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–2021–D–0996 for ''Technical Considerations for Medical Devices with Physiologic Closed-Loop Control Technology.'' 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 ''Technical Considerations for Medical Devices with Physiologic Closed-Loop Control Technology'' to the Office of Policy, Center for Devices and Radiological Health (CDRH), 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: Christopher Scully, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 62, Rm. 1130, Silver Spring, MD 20993–0002, 301–796–2928.

SUPPLEMENTARY INFORMATION:

I. Background

PCLC technology can enable automation in a variety of medical device types including infusion systems, ventilators, extracorporeal systems, and stimulation systems. Automated adjustments of a physiologic variable(s) through the delivery or removal of energy or article (*e.g.,* drugs,[1] or liquid or gas regulated as a medical device), such as automated fluid resuscitation, ventilation/oxygenation and anesthesia delivery, are emerging applications for the critical and emergency care environments. PCLC devices may benefit the patient by facilitating safe and effective, consistent, and timely delivery or removal of energy or article. However, introducing automation and reducing clinician involvement can incur new types of hazards which may render the medical device unsafe if not properly designed or evaluated. This guidance provides technical considerations for PCLC technology during device development to support the safe and effective design and evaluation of PCLC medical devices.

CDRH held a public workshop entitled ''Physiological Closed-Loop Controlled Devices'' on October 13 and 14, 2015 [2] with the aim of fostering an open discussion on design and evaluation considerations associated with PCLC devices used in critical care environments. This workshop provided a forum for medical device manufacturers, clinical users and academia to discuss technical considerations for automated medical devices with PCLC technology. The feedback and recommendations provided at the meeting were incorporated in this guidance.

A notice of availability of the draft guidance appeared in the **Federal Register** of December 23, 2021 (86 FR 72971). FDA considered comments received and revised the guidance as appropriate in response to the comments, including clarification that the scope of the guidance is limited to recommendations regarding PCLC aspects of a device, adding potential benefits of PCLC devices, adding references to applicable guidance documents and standards, adding more examples of PCLC device functions, revising technical considerations in PCLC device design, and addressing device interoperability.

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 Technical Considerations for Medical Devices with Physiologic Closed-Loop Control Technology. 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 ''Technical Considerations for Medical Devices with Physiologic Closed-Loop Control Technology'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI01500085 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

21 CFR part or guidance	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Use Devices; Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
860, subpart D	De Novo classification process	0910–0844

[1] The term drug as used in this guidance refers to both human drugs and biological products unless otherwise specified.

[2] See *http://wayback.archive-it.org/7993/20170112084803/http:/www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/ucm457581.htm.*

21 CFR part or guidance	Topic	OMB control No.
''Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program''.	Q-submissions and Early Payor Feedback Request Programs for Medical Devices.	0910–0756
800, 801, 809, and 830	Medical Device Labeling Regulations; Unique Device Identification.	0910–0485
803	Medical Device Reporting	0910–0437
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: September 26, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–21412 Filed 9–28–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Supplemental Award; Infant, Child, and Adolescent Preventive Services

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of supplemental award.

SUMMARY: In fiscal year (FY) 2023, HRSA will provide supplemental funds to continue to provide technical assistance to pediatric primary care providers nationwide to connect them with Pediatric Mental Health Care Access (PMHCA) programs in their areas and to increase their capacity to provide pediatric mental and behavioral health care services.

FOR FURTHER INFORMATION CONTACT: Lauren Ramos, Director, Division of Maternal and Child Health Workforce Development, Maternal and Child Health Bureau, Health Resources and Services Administration, at *LRamos@hrsa.gov* and 301–443–6091.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: The American Academy of Pediatrics (AAP), as the sole recipient under HRSA–23–074.

Amount of Non-Competitive Award: One award for $2,000,000. Supplemental funding for similar activities may be considered in FYs 2024 and 2025, subject to availability of funding for the activity and satisfactory performance of the recipient.

Project Period: September 30, 2023, to September 29, 2024.

CFDA Number: 93.110.

Award Instrument: Supplement for Services.

Authority: 42 U.S.C. 254c-19 (§ 330M of the Public Health Service Act), as amended by Section 11005 of the Bipartisan Safer Communities Act (Pub. L. 117–159)).

TABLE 1—RECIPIENTS AND AWARD AMOUNTS

Grant No.	Award recipient name	City, state	Award amount
U04MC31627	American Academy of Pediatrics	Itasca, IL ..	$2,000,000

Justification: Congress provided additional appropriations for the PMHCA program in FY 2022 that have allowed existing PMHCA projects to enhance workforce capacity to address the growing behavioral health needs among children and adolescents. This supplemental funding will support continued expansion of the reach and capacity of PMHCA programs in providing training and tele-consult support to pediatric primary care providers.

Carole Johnson,

Administrator.

[FR Doc. 2023–21485 Filed 9–28–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Supplemental Award; Emergency Medical Services for Children Innovation and Improvement Center

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of supplemental award.

SUMMARY: For fiscal year 2023, HRSA will provide additional supplemental funds for the Emergency Medical Services for Children Innovation and Improvement Center to continue to provide assistance to a Pediatric Mental Health Care Access (PMHCA) award recipient so that they can improve access to PMHCA program activities in emergency departments.

FOR FURTHER INFORMATION CONTACT: Lauren Ramos, Director, Division of Maternal and Child Health Workforce Development, Maternal and Child Health Bureau, Health Resources and Services Administration, at *LRamos@hrsa.gov* and (301)443–6091.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: The University of Texas at Austin, the sole recipient of HRSA–20–037

Amount of Non-Competitive Award: One award for $1,000,000.

Project Period: September 30, 2023, to September 29, 2024.

CFDA Number: 93.110.

Award Instrument: Supplement.

Authority: 42 U.S.C. 254c–19 section 330M of the Public Health Service Act as amended by section 11005 of the Bipartisan Safer Communities Act (Pub. L. 117–159))

TABLE 1—RECIPIENTS AND AWARD AMOUNTS

Grant No.	Award recipient name	City, state	Award amount
U07MC37471	University of Texas at Austin	Austin, TX	$1,000,000

Justification: In fiscal year 2022, Congress provided additional funding for the PMHCA program and expanded the allowable activities for PMHCA programs to include support for hospital emergency departments to address the growing behavioral health needs among children and adolescents. This supplemental funding to the existing Emergency Medical Services for Children Innovation and Improvement Center recipient will support continued expansion of PMHCA programs in providing training and tele-consult support to providers in emergency departments and other settings, consistent with the additional authority enacted by Congress.

Carole Johnson,

Administrator.

[FR Doc. 2023–21510 Filed 9–28–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Supplemental Award; National Center for Newborn Screening Systems Excellence Funding Supplement

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of supplemental award.

SUMMARY: HRSA will provide supplemental funding to the National Center for Newborn Screening Systems Excellence in fiscal year 2023.

FOR FURTHER INFORMATION CONTACT: Kim Morrison, Public Health Analyst, Division of Services for Children with Special Health Needs, Maternal and Child Health Bureau, Health Resources and Services Administration, at *KMorrison@hrsa.gov* and 301–443–6672.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: The Association of Public Health Laboratories.

Amount of Non-Competitive Award: $425,000. Supplemental funding for similar activities may be considered in fiscal year 2024, subject to availability of funding for the activity and satisfactory performance of the recipient.

Project Period: July 1, 2023, to June 30, 2028.

CFDA Number: 93.110.

Award Instrument: Supplement for Services.

Authority: 42 U.S.C. 300b–8 (Public Health Service Act section 1109, as amended).

TABLE 1—RECIPIENT AND AWARD AMOUNT

Grant No.	Award recipient name	City, state	Award amount
U22MC24078	Association of Public Health Laboratories	Silver Spring, MD	$425,000

Justification: The National Center for Newborn Screening Systems Excellence provides national leadership, technical assistance, and quality improvement expertise to state and territory newborn screening programs. Additional funding will support emerging needs in the newborn screening community and state laboratories, specifically addressing newborn screening condition naming, counting, testing, assessing health gaps in follow-up, and assessing domains of family outcomes.

Carole Johnson,

Administrator.

[FR Doc. 2023–21512 Filed 9–28–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions

as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on August 1, 2023, through August 31, 2023. This list provides the name of the petitioner, city, and state of vaccination (if unknown then the city and state of the person or attorney filing the claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Health Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (Petitioner's Name v. Secretary of HHS) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of Title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Carole Johnson,

Administrator.

List of Petitions Filed

1. Caitlyn Kuykendall, Ennis, Texas, Court of Federal Claims No: 23–1198V
2. Robert Haas, San Pedro, California, Court of Federal Claims No: 23–1199V
3. Kayla Goggans, Greenbelt, Maryland, Court of Federal Claims No: 23–1200V
4. Michele O'Connell, Olivebridge, New York, Court of Federal Claims No: 23–1205V
5. Kirsten Bowland, Nottingham, Maryland, Court of Federal Claims No: 23–1206V
6. Scott Stevens on behalf of Evan Stevens, Minneapolis, Minnesota, Court of Federal Claims No: 23–1207V
7. Skylar Allen, Beverly, New Jersey, Court of Federal Claims No: 23–1209V
8. Ava Chang, Sacramento, California, Court of Federal Claims No: 23–1213V
9. Jocelyn Vazquez, Park Ridge, Illinois, Court of Federal Claims No: 23–1217V
10. Jozsef Pocsi, Orlando, Florida, Court of Federal Claims No: 23–1220V
11. Vaughn Costello, Washington, District of Columbia, Court of Federal Claims No: 23–1228V
12. Sonia Narvaez, Cape Coral, Florida, Court of Federal Claims No: 23–1231V
13. Kevin Brown, Sarasota, Florida, Court of Federal Claims No: 23–1235V
14. Camille Wainer, Fort Worth, Texas, Court of Federal Claims No: 23–1245V
15. Meghan Gamboa, Las Vegas, Nevada, Court of Federal Claims No: 23–1253V
16. Deana Cookson, Watertown, Wisconsin, Court of Federal Claims No: 23–1254V
17. Sascha Hirrle on behalf of L. H., Chicago, Illinois, Court of Federal Claims No: 23–1256V
18. Teresa Mimms, Lafayette, Indiana, Court of Federal Claims No: 23–1258V
19. Zaher Fayyad, Sterling Heights, Michigan, Court of Federal Claims No: 23–1260V
20. Eric Traiger, West Orange, New Jersey, Court of Federal Claims No: 23–1267V
21. Marlene Swords, York, Pennsylvania, Court of Federal Claims No: 23–1270V
22. Karina Frecka, Racine, Wisconsin, Court of Federal Claims No: 23–1271V
23. Carolyn Worlds, Fort Wayne, Indiana, Court of Federal Claims No: 23–1272V
24. Greg Spayd, State College, Pennsylvania, Court of Federal Claims No: 23–1273V
25. Joyce Allred, Springfield, Missouri, Court of Federal Claims No: 23–1274V
26. Jaimee Palm on behalf of H. D., Phoenix, Arizona, Court of Federal Claims No: 23–1280V
27. Andrew Luksch, Depew, New York, Court of Federal Claims No: 23–1281V
28. Harris Paltrowitz, New York City, New York, Court of Federal Claims No: 23–1283V
29. Michael Doby, Livonia, Michigan, Court of Federal Claims No: 23–1285V
30. Marc Sanders, Phoenix, Arizona, Court of Federal Claims No: 23–1287V
31. Richard Lewis Foss, Birmingham, Alabama, Court of Federal Claims No: 23–1288V
32. Gloria Hernandez, Jersey City, New Jersey, Court of Federal Claims No: 23–1290V
33. Raul Barrios, Bronx, New York, Court of Federal Claims No: 23–1291V
34. Laura Weissbach, Tigard, Oregon, Court of Federal Claims No: 23–1293V
35. Diane Newcomb, Natick, Massachusetts, Court of Federal Claims No: 23–1294V
36. Saul Antonio Torres-Barrera, San Pedro, California, Court of Federal Claims No: 23–1295V
37. Elizabeth Young, Charlotte, North Carolina, Court of Federal Claims No: 23–1297V
38. Laquila Brown, Phoenix, Arizona, Court of Federal Claims No: 23–1299V
39. Chaim Greenfeld on behalf of C. G., New York, New York, Court of Federal Claims No: 23–1301V
40. Angela Armstrong, Lebanon, Missouri, Court of Federal Claims No: 23–1304V
41. Karen Bowie, Dallas, Texas, Court of Federal Claims No: 23–1306V
42. Kevin W. Craig, State College, Pennsylvania, Court of Federal Claims No: 23–1311V
43. Glenn E. Clapsaddle, Jefferson, Ohio, Court of Federal Claims No: 23–1312V
44. Maria V. Paltrinieri Baclini, Miami, Florida, Court of Federal Claims No: 23–1313V
45. Michael Stage, Florissant, Missouri, Court of Federal Claims No: 23–1314V
46. Stephanie Bennett, Boston, Massachusetts, Court of Federal Claims No: 23–1315V
47. Pablo Mendoza, Horizon City, Texas, Court of Federal Claims No: 23–1318V
48. Carolyn M. Fenwick, Southwick, Massachusetts, Court of Federal Claims No: 23–1320V
49. Sierra White on behalf of K. W., New York, New York, Court of Federal Claims No: 23–1321V
50. Nancy Ajolo, Honolulu, Hawaii, Court of Federal Claims No: 23–1323V
51. Steve Mobley, Fort Worth, Texas, Court of Federal Claims No: 23–1324V
52. Shelly Wigler on behalf of A. W., Newton, Pennsylvania, Court of Federal Claims No: 23–1325V
53. Jermaine A. Beale, Memphis, Tennessee,

Court of Federal Claims No: 23–1326V
54. Silvia Aguayo, Lancaster, California, Court of Federal Claims No: 23–1327V
55. Katie B. Tate, Los Angeles, California, Court of Federal Claims No: 23–1342V
56. Savana Torres, Los Angeles, California, Court of Federal Claims No: 23–1343V
57. Linda Orbanac, Sayre, Pennsylvania, Court of Federal Claims No: 23–1344V
58. Angela Battles, White, Georgia, Court of Federal Claims No: 23–1345V
59. Mark E. Hanson, Minneapolis, Minnesota, Court of Federal Claims No: 23–1346V
60. Beata Brozek, Evanston, Illinois, Court of Federal Claims No: 23–1347V
61. Melissa Thomas on behalf of M. T., Wilmington, North Carolina, Court of Federal Claims No: 23–1351V
62. Danyel Nelson, Warwick, Rhode Island, Court of Federal Claims No: 23–1352V
63. John Schouest, Thibodaux, Louisiana, Court of Federal Claims No: 23–1353V
64. Nicole Sicuro-Leipski on behalf of G. L., Kenosha, Wisconsin, Court of Federal Claims No: 23–1356V
65. Shalonda Goolsby, Dresher, Pennsylvania, Court of Federal Claims No: 23–1357V
66. Alice McCarthy, Renton, Washington, Court of Federal Claims No: 23–1360V
67. Yesid Hernandez, Naples, Florida, Court of Federal Claims No: 23–1364V
68. Leah Keller, Washington, District of Columbia, Court of Federal Claims No: 23–1367V
69. Bethel Stevens, Waimea, Hawaii, Court of Federal Claims No: 23–1369V
70. Dolores Jefferson, Fairburn, Georgia, Court of Federal Claims No: 23–1370V
71. Dawn Ferris-Murray, Mount Laurel, New Jersey, Court of Federal Claims No: 23–1380V
72. Jeremy Allred, Minneapolis, Minnesota, Court of Federal Claims No: 23–1385V
73. Mary Louise Spann, Nashville, Tennessee, Court of Federal Claims No: 23–1395V
74. Vincent Russell, West Chester, Pennsylvania, Court of Federal Claims No: 23–1397V
75. Larry Cunningham, Aurora, Colorado, Court of Federal Claims No: 23–1404V
76. Chinyere Jumbo, Hoover, Alabama, Court of Federal Claims No: 23–1419V
77. Chinyere Jumbo, Hoover, Alabama, Court of Federal Claims No: 23–1421V
78. Leora Chasen, Binghamton, New York, Court of Federal Claims No: 23–1423V
79. Steven Hofmaster, Camas, Washington, Court of Federal Claims No: 23–1430V
80. Aislynn Hayes, Murfreesboro, Tennessee, Court of Federal Claims No: 23–1448V
81. Bobby Rossette, Boston, Massachusetts, Court of Federal Claims No: 23–1477V
82. Maria Bettinger, Houston, Texas, Court of Federal Claims No: 23–1478V
83. Candy Guzman-Guizar, Alhambra, California, Court of Federal Claims No: 23–1484V
84. Brian Andrew Vergara, Phoenix, Arizona, Court of Federal Claims No: 23–1486V
85. Yoshua Rozen, Boston, Massachusetts, Court of Federal Claims No: 23–1487V
86. Kristen Edwards Dempsey, Honolulu, Hawaii, Court of Federal Claims No: 23–1493V
87. Andrea Mae Warren, Honolulu, Hawaii, Court of Federal Claims No: 23–1494V
88. Gina Lewis, Sterling, Kansas, Court of Federal Claims No: 23–1495V
89. Ollie Phillips, Woodridge, Illinois, Court of Federal Claims No: 23–1496V
90. Elizabeth Herman, West Chester, Pennsylvania, Court of Federal Claims No: 23–1497V
91. John Bovard, Boston, Massachusetts, Court of Federal Claims No: 23–1498V
92. Kandi Shafer, Woodridge, Illinois, Court of Federal Claims No: 23–1499V
93. John Yankey, Canby, Oregon, Court of Federal Claims No: 23–1500V
94. Tynh Maejlauk, Chandler, Arizona, Court of Federal Claims No: 23–1501V
95. Linda Shaw, DeLand, Florida, Court of Federal Claims No: 23–1502V
96. Lashay Cameron on behalf of N. C., Jr., Deceased, Aventura, Florida, Court of Federal Claims No: 23–1505V
97. Rebecca Furdell, Cape Coral, Florida, Court of Federal Claims No: 23–1506V
98. Margaret Covino, Worcester, Massachusetts, Court of Federal Claims No: 23–1508V
99. Bartolomeo Marano, Boston, Massachusetts, Court of Federal Claims No: 23–1509V
100. Lynda Speer, Washington, District of Columbia, Court of Federal Claims No: 23–1511V

[FR Doc. 2023–21498 Filed 9–28–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Request for Public Comments on a Draft Recommendation To Update the HRSA-Supported Women's Preventive Services Guideline Relating to Screening for Urinary Incontinence

AGENCY: Health Resources and Services Administration (HRSA), U. S. Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice seeks comments on a draft recommendation to update the HRSA-supported Women's Preventive Services Guidelines (''Guidelines'') relating to Screening for Urinary Incontinence. This draft recommendation has been developed through a cooperative agreement, known as the Women's Preventive Services Initiative (WPSI), with the American College of Obstetricians and Gynecologists (ACOG), through which they convene health professionals to develop draft recommendations. Under applicable law, non-grandfathered group health plans and health insurance issuers must include coverage, without cost sharing, for certain preventive services, including those provided for in the HRSA-supported Guidelines. The Departments of Labor, Health and Human Services, and Treasury have previously issued regulations, which describe how group health plans and health insurance issuers apply the coverage requirements.

DATES: Members of the public are invited to provide written comments no later than October 30, 2023. All comments received on or before this date will be reviewed and considered by WPSI and provided for further consideration by HRSA in determining the recommended update that it will support.

ADDRESSES: Members of the public who wish to provide comments can do so by accessing the public comment web page at *https://www.womenspreventivehealth.org/.*

FOR FURTHER INFORMATION CONTACT: Kimberly Sherman, HRSA, Maternal and Child Health Bureau, telephone (301) 443–8283, email: *wellwomancare@hrsa.gov.*

SUPPLEMENTARY INFORMATION: Under section 1001(5) of the Patient Protection and Affordable Care Act, Public Law 111–148, which added section 2713 to the Public Health Service Act, 42 U.S.C. 300gg-13, the preventive care and screenings set forth in the Guidelines are required to be covered without cost-sharing by certain group health plans and health insurance issuers. HRSA established the Guidelines in 2011 based on expert recommendations by the Institute of Medicine, now known as the National Academy of Medicine, developed under a contract with the Department of Health and Human Services. Since 2011, there have been advancements in science and gaps identified in these guidelines, including a greater emphasis on practice-based clinical considerations. Since 2016, HRSA has funded cooperative agreements with ACOG for WPSI to convene a coalition representing clinicians, academics, and consumer-focused health professional organizations to conduct a rigorous review of current scientific evidence, solicit and consider public input, and make recommendations to HRSA regarding updates to the Guidelines to improve women's health across the lifespan. HRSA then determines whether to support, in whole or in part, the recommended updates to the Guidelines. WPSI consists of an Advisory Panel and two expert committees, the Multidisciplinary Steering Committee and the Dissemination and Implementation

Steering Committee, which are comprised of a broad coalition of organizational representatives who are experts in disease prevention and women's health issues. With oversight by the Advisory Panel, and with input from the Multidisciplinary Steering Committee, WPSI examines the evidence to develop new (and update existing) recommendations for women's preventive services. WPSI's Dissemination and Implementation Steering Committee takes HRSA-approved recommendations and disseminates them through the development of implementation tools and resources for both patients and practitioners.

WPSI bases its recommended updates to the Guidelines on review and synthesis of existing clinical guidelines and new scientific evidence, following the National Academy of Medicine standards for establishing foundations for and rating strengths of recommendations, articulation of recommendations, and external reviews. Additionally, HRSA requires that WPSI incorporate processes to assure opportunity for public comment, including participation by patients and consumers, in the development of its recommendations to the updated Guidelines.

The Existing Guideline States

''*Screening for Urinary Incontinence*

WPSI recommends screening women for urinary incontinence annually. Screening should ideally assess whether women experience urinary incontinence and whether it impacts their activities and quality of life. The Women's Preventive Services Initiative recommends referring women for further evaluation and treatment if indicated.''

Draft Updated Clinical Recommendation for Public Comment

''*Screening for Urinary Incontinence*

The Women's Preventive Services Initiative recommends screening women for urinary incontinence annually. Screening should assess whether women experience urinary incontinence and whether it impacts their activities and quality of life. If indicated, facilitating further evaluation and treatment is recommended.''

Discussion of Draft Updated Clinical Recommendation

WPSI recommended several minor updates to the language of this Guideline. First, the word ''ideally'' is recommended to be removed from the second sentence for brevity, and its removal, if accepted by HRSA, will not substantively change the existing guideline. Second, the final sentence of the clinical recommendation recommends changing the word ''referring'' to ''facilitating'' to reflect that clinicians in practice, after screening for urinary incontinence, may decide to treat or manage urinary incontinence as part of standard primary care services or refer to specialists if specialist care is needed. Lastly, WPSI recommended minor edits to the language of the Guideline for the purposes of clarity. These minor edits have no substantive effect on the requirement for coverage without cost-sharing.

Members of the public can view the complete updated draft recommendation, which includes the implementation considerations and research recommendations, by accessing the initiative's web page at *https://www.womenspreventivehealth.org/.*

Carole Johnson,

Administrator.

[FR Doc. 2023–21514 Filed 9–28–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; Mentored Clinical Scientist Research Career Development Award (K08/K23) and Conference Grant (R13) Applications.

Date: October 26, 2023.

Time: 12:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, 6700 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Brian Hoshaw, Ph.D., Designated Federal Official, Division of Extramural Research, National Eye Institute, National Institutes of Health, 6700 B Rockledge Dr., Rockville, MD 20892, 301–451–2020, *hoshawb@mail.nih.gov.*

Name of Committee: National Eye Institute Special Emphasis Panel; Pathways to Independence (K99) Applications.

Date: November 6, 2023.

Time: 11:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, 6700B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Ashley Fortress, Ph.D., Designated Federal Official, Division of Extramural Activities, National Eye Institute, National Institutes of Health, 6700 B Rockledge Dr., Bethesda, MD 20817, (301) 451–2020, *ashley.fortress@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21490 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Nursing Research.

This will be a hybrid meeting held in-person and virtually and will be open to the public as indicated below. Individuals who plan to attend in-person or view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: *https://videocast.nih.gov/*

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 Advisory Council for Nursing Research.

Date: January 25, 2024.

Open: 9:00 a.m. to 3:00 p.m.

Agenda: Call to Order and Opening Remarks, NINR Director's Report, Concepts, Council Open Discussion.

Place: National Institutes of Health, Building 31, C-Wing, Sixth Floor, Rooms A&B, 31 Center Drive, Bethesda, MD 20892 (Hybrid Meeting).

Closed: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Building 31, C-Wing, Sixth Floor, Rooms A&B, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Elizabeth Tarlov, Ph.D., RN, Director, Division of Extramural Science Programs (DESP), National Institute of Nursing Research, Bethesda, MD 20892, (301) 594–1580, *elizabeth.tarlov@nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of an organization may submit a letter of intent, a brief description of the organization represented and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://www.ninr.nih.gov/aboutninr/nacnr,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21433 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIHAI75N93023R00003: Pre-clinical Models of Infectious Diseases—Task Area C.

Date: November 1–2, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G74, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Hailey Peterson Weerts, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G74, Rockville, MD 20852, (240) 669–5931, *hailey.weerts@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21357 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Synthetic Nucleic Acid Platforms for HIV–1 (SNAPH): (R61/R33 Clinical Trial Not Allowed).

Date: November 21, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G11, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Barry J. Margulies, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G11, Rockville, MD 20852, (301) 761–7956, *barry.margulies@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21359 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

This is a virtual meeting and will be open to the public as indicated below. The url link to this meeting is: *https://www.nidcd.nih.gov/about/advisory-council/upcoming-meetings.* Individuals who plan to attend and need special assistance, such as sign language

interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The 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 Deafness and Other Communication Disorders Advisory Council.

Date: January 25–26, 2024.

Closed: January 25, 2024, 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Open: January 25, 2024, 1:00 p.m. to 4:00 p.m.

Agenda: Staff reports on divisional, programmatical, and special activities.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Open: January 26, 2024, 10:00 a.m. to 12:00 p.m.

Agenda: Staff reports on divisional, programmatical, and special activities.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Rebecca Wagenaar-Miller, Ph.D., Director, Division of Extramural Activities, NIDCD/NIH, 6001 Executive Boulevard, Bethesda, MD 20892, (301) 496–8693, *rebecca.wagenaar-miller@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.nidcd.nih.gov/about/advisory-council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 25, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21492 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Clinical Trial Implementation Cooperative Agreement (U01 Clinical Trial Required).

Date: October 25, 2023.

Time: 10:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G56, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Poonam Tewary, Ph.D., Scientific Review Officer, Scientific Review Program Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G56, Rockville, MD 20852, (301) 761–7219, *tewaryp@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21353 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the President's Cancer Panel.

This will be a hybrid meeting held in-person and virtually and will be open to the public, with in-person attendance limited to space available. Individuals who plan to attend in-person or view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed by clicking on the following link: *https://nci.rev.vbrick.com/#/webcasts/policyconsiderationsintersectiontechnpatientnav.*

Name of Committee: President's Cancer Panel.

Date: December 7, 2023.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: Reducing Cancer Care Inequities: Policy Considerations at the Intersection of Technology and Patient Navigation.

Place: Natcher Conference Center, NIH Building 45, Room E1/E2, 45 Center Drive, Bethesda, MD 20894 (Hybrid Meeting).

Contact Person: Maureen R. Johnson, Ph.D., Executive Secretary, President's Cancer Panel, Special Assistant to the Director, National Cancer Institute, NIH, 31 Center Drive, Room 11A48 MSC 2590, Bethesda, MD 20892, 240–781–3327, *johnsonr@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/pcp/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 26, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21439 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Cooperative Centers on Human Immunology (U19 Clinical Trial Optional).

Date: October 31–November 2, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G58, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Anuja Mathew, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G58, Rockville, MD 20852, 301–761–6911, *anuja.mathew@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21356 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: November 6, 2023.

Open: 11:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate staff reports on divisional, programmatical, and special activities.

Place: Porter Neuroscience Research Center, Building 35A, 35 Convent Drive, Bethesda, MD 20892 (Virtual Meeting).

Closed: 11:30 a.m. to 5:05 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: Porter Neuroscience Research Center, Building 35A, 35 Convent Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lisa L. Cunningham, Ph.D., Scientific Director, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 35A Convent Drive, Rockville, MD 20850, 301–443–2766, *lisa.cunningham@nih.gov.*

Information is also available on the Institute's/Center's home page: *https://www.nidcd.nih.gov/about/advisory-committees,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 25, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21494 Filed 9–28–23; 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 Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Development, Risk and Prevention Study Section.

Date: October 26–27, 2023.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Anna L. Riley, Ph.D. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, 301– 435–2889, *rileyann@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Neurodegeneration and Aging.

Date: October 30–31, 2023.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ashley Marie Kopec, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–9293, *kopecam@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Nutrition and Metabolism in Health and Disease Study Section.

Date: November 2–3, 2023.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Jonathan Michael Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive,

Bethesda, MD 20892, (301) 867–5309, *jonathan.peterson@nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Neurodegeneration Study Section.

Date: November 2–3, 2023.

Time: 9:30 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Hybrid Meeting).

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7850, Bethesda, MD 20892, 301–435–1203, *laurent.taupenot@nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Motivated Behavior Study Section.

Date: November 2–3, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Janita N. Turchi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–4005, *turchij@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncology.

Date: November 2–3, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Reigh-Yi Lin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4152, MSC 7846, Bethesda, MD 20892, (301) 827–6009, *lin.reigh-yi@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Therapeutics and Prevention.

Date: November 9, 2023.

Time: 1:00 p.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: Shahana Majid, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309, *shahana.majid@nih.gov*.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; HIV Comorbidities and Clinical Studies Study Section.

Date: November 14–15, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20876 (Virtual Meeting).

Contact Person: Shannon J. Sherman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–0715, *shannon.sherman@nih.gov*.

Name of Committee: Center for Scientific Review, Special Emphasis Panel; PAR: 20–181 Limited Competition National Primate Research Program Projects.

Date: November 15–17, 2023.

Time: 12:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Elaine Sierra-Rivera, Ph.D., IRG Chief, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, Bethesda, MD 20892, (301) 435–2514, *riverase@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Instrumentation and Systems Development.

Date: November 16–17, 2023.

Time: 10:00 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joseph D. Mosca, Ph.D., Scientific Review Officer, Center for Scientific, Review National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 408–9465 *moscajos@csr.nih.gov*.

Name of Committee: Center for Scientific Review, Special Emphasis Panel; Small Business: SBIR/STTR Commercialization Readiness Pilot (CRP) Program.

Date: November 28, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 6188 MSC 7804, Bethesda, MD 20892, 301–435–1267, *belangerm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training in Veterinary and Comparative Medicine.

Date: November 28, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John Harold Laity, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8254, *laityjh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biomaterials, Delivery, and Nanotechnology.

Date: November 30–December 1, 2023.

Time: 8:00 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Hybrid Meeting).

Contact Person: David R. Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21366 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; TRND 2 TOXICOLOGY STUDIES AND RELATED SERVICES FOR PRECLINICAL DRUG DEVELOPMENT.

Date: October 31–November 1, 2023.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, National Center for Advancing Translational Sciences, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, National Institutes of

Health, 6701 Democracy Boulevard, Room 1078, Bethesda, MD 20892, (301) 594–7319, *khanr2@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 25, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21308 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board.

The meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals attending who need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed at: *https://nih.zoomgov.com/webinar/register/WN_3LaHaBeSToq8W6oLhyl1MQ*.

Name of Committee: Sleep Disorders Research Advisory Board.

Date: December 7, 2023.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: The purpose of this meeting is to update the Advisory Board and public stakeholders on the research agenda across NIH for the upcoming fiscal year, and the activities of professional societies.

Place: National Institutes of Health, Rockledge Centre II, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

The event is free and open to the public; however, registration is required. Please use this link to register: *https://nih.zoomgov.com/webinar/register/WN_3LaHaBeSToq8W6oLhyl1MQ*.

Contact Person: Marishka Brown, Ph.D., SDRAB Executive Secretary, Director, National Center on Sleep Disorders Research, National Institutes of Health, National Heart, Lung, and Blood Institute, 6705 Rockledge Dr., Bethesda, MD 20814–7952, 301.435.0199, *ncsdr@nih.gov*.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 5 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Information is also available on the Institute's/Center's home page: *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/sleep-disorders-research,* where an agenda and any additional information for the meeting will be posted when available.

Information is also available on the Institute's/Center's home page: *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/sleep-disorders-research* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21315 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; TRND1 Chemistry Manufacturing and Controls for Drug Substances.

Date: November 2–3, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Victor Henriquez, Ph.D., Scientific Review Officer, Office of Scientific Director, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1066, Bethesda, MD 20892, (301) 435–0813, *henriquv@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 26, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21443 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA RC2 High Impact Specialized Innovation Programs Review Meeting.

Date: January 17, 2024.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jing Chen, Ph.D., Scientific Review Officer, Office of Scientific Review,

National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1080, Bethesda, MD 20892, (301) 827–3268, *chenjing@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 26, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21442 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Initial Review Group Medication Development Research Study Section.

Date: November 15, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Preethy Nayar, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, 301–443–4577, *nayarp2@csr.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, NIDA Avant-Garde Program for HIV and Substance Use Disorder Research.

Date: December 5–6, 2023.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sheila Pirooznia, Ph.D., Scientific Review Officer, Division of Extramural Review, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892 (301) 496–9350, *sheila.pirooznia@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21365 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Developing Regulated Therapeutic and Diagnostic Solutions for Patients Affected by Opioid and/or Stimulants Use Disorders.

Date: November 9, 2023.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sudhirkumar U. Yanpallewar, M.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, Bethesda, MD 20892, (301) 443–4577 *sudhirkumar.yanpallewar@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21369 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel International Research in Infectious Diseases (R01 Clinical Trial Not Allowed).

Date: November 30–December 1, 2023.

Time: 9:30 a.m. to 10:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E70A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E70A, Rockville, MD 20852, 301–435–0903, *saadisoh@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21362 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Sensory-Motor Neuroscience Study Section, October 12, 2023, 10:00 a.m. to October 13, 2023, 8:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on September 18, 2023, 88 FR 63969, Doc. No. 2023–20104.

This meeting is being amended to change the date from October 12, 2023–October 13, 2023, to October 12, 2023. The meeting is closed to the public.

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21355 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; NIH-DoD-VA Pain Management Collaboratory—Coordinating Center (U24).

Date: December 5, 2023.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Center for Complementary and Integrative, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: MARTA V Hamity, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892, *marta.hamity@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: September 26, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21483 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS T32 applications review.

Date: October 16–17, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: San Francisco Marriott Union Square Hotel, 480 Sutter Street, San Francisco, CA 94108.

Contact Person: Abhignya Subedi, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–9223, *abhi.subedi@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. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21364 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Voice, Speech, and Language Fellowship Review.

Date: October 25, 2023.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Sonia Elena Nanescu, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6001 Executive Blvd., Suite 8300, Bethesda, MD 20892, (301) 496–8683, *sonia.nanescu@nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Research Opportunities for New Investigators to Promote Workforce Diversity.

Date: November 9, 2023.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, National Institute

on Deafness and Other Communication Disorders, National Institutes of Health, 6001 Executive Boulevard, Room 8351, Bethesda, MD 20892, (301) 451–6339, *kellya2@nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD R25 Education Grant Review.

Date: November 15, 2023.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 6001 Executive Boulevard, Room 8351, Bethesda, MD 20892, (301) 451–6339, *kellya2@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 25, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21493 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Career Development (Ks) and Conference Support (R13) Review.

Date: November 9, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Democracy II, Suite 920, 6707 Democracy Blvd., Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Alexander O. Komendantov, Ph.D., MS, Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Blvd., Bethesda, MD 20892, (301) 451–3397, *alexander.komendantov@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health)

Dated: September 20, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21489 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Consortium for Food Allergy Research: Leadership Center (UM1 Clinical Trial Required).

Date: November 1, 2023.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Lindsey M. Pujanandez, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52 Rockville, MD 20852, (240) 627–3206, *lindsey.pujanandez@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21358 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group; Cancer Centers Study Section (A).

Date: December 1, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W530, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Shamala K. Srinivas, Ph.D., Associate Director, Office of Referral, Review, and Program Coordination, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W530, Rockville, Maryland 20850, 240–276–6442, *ss537t@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 26, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21445 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; Exploratory Clinical Trials of Mind and Body Interventions (MB).

Date: November 2–3, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Complementary and Integrative, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: BAILA SARA Hall, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, (301) 443–9285, *baila.hall@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: September 25, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21479 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; P41 NCBIB Review C–SEP.

Date: October 25–27, 2023.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Democracy II, Suite 920, 6707 Democracy Blvd., Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Manana Sukhareva, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Blvd., Suite 959, Bethesda, MD 20892, (301) 451–3397, *sukharem@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health)

Dated: September 25, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21486 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Cancer Advisory Board (NCAB) and NCI Board of Scientific Advisors (BSA).

This will be a hybrid meeting held in-person and virtually and will be open to the public as indicated below. Individuals who plan to attend in-person or view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: *https://videocast.nih.gov/.*

A portion of the National Cancer Advisory Board meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended. The intramural programs and projects and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the intramural programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Advisory Board.

Date: November 29, 2023.

Open: 5:30 p.m. to 9:00 p.m.

Agenda: National Cancer Advisory Board Subcommittee Meetings.

Place: Gaithersburg Marriott Washingtonian Center, Room—TBD, 9751 Washington Boulevard, Gaithersburg, MD 20878.

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Room 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov.*

Name of Committee: National Cancer Advisory Board and NCI Board of Scientific Advisors.

Date: November 30, 2023.

Open: 8:00 a.m. to 4:15 p.m.

Agenda: Joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors, NCI Director's Report and Presentations.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Room TE406 & 408, Rockville, MD 20850.

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Room 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov.*

Name of Committee: National Cancer Advisory Board.

Date: November 30, 2023.

Closed: 4:30 p.m. to 5:30 p.m.

Agenda: Review of intramural program site visit outcomes and the discussion of confidential personnel issues.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Room TE406 & 408, Rockville, MD 20850.

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Room 7W444, Bethesda, MD 20892, 240–276–6340 *grayp@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NCI-Shady Grove campus. All visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: NCAB: *http://deainfo.nci.nih.gov/advisory/ncab/ncab.htm,* BSA: *http://deainfo.nci.nih.gov/advisory/bsa/bsa.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 26, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21441 Filed 9–28–23; 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 Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biomaterials and Biointerfaces Study Section.

Date: October 26–27, 2023.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jessica Bellinger, Ph.D., Scientific Review Administrator, Center for Scientific of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, Bethesda, MD 20892, 301–827–4446, *bellingerjd@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Instrumentation: Electron Microscopy.

Date: November 1, 2023.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Robert O'Hagan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 909–6378, *ohaganr2@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies B Study Section.

Date: November 2–3, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.

Contact Person: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3142, Bethesda, MD 20892, 301–435–2309, *fothergillke@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Brain Disorders and Related Neurosciences.

Date: November 2–3, 2023.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Vilen A Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov*.

Name of Committee: Biology of Development and Aging Integrated Review Group; Advancing Therapeutics A Study Section.

Date: November 2–3, 2023.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maureen Shuh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–4097, *maureen.shuh@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Clinical Care and Health Interventions.

Date: November 6–7, 2023.

Time: 9:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Hoa Thi Vo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1002B2, Bethesda, MD 20892, (301) 594–0776, *voht@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Obesity and Metabolism Study Section.

Date: November 7, 2023.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Heather Marie Brockway, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 813H, Bethesda, MD 20892, (301) 594–5228, *brockwayhm@csr.nih.gov*.

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Anti-Infective Resistance and Targets Study Section.

Date: November 8–9, 2023.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Alexandria Old Town, 1900 Diagonal Road, Alexandria, VA 22314.

Contact Person: Jui Pandhare, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7735, *pandharej2@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; HIV/AIDS Intra- and Inter-personal Determinants and Behavioral Interventions Study Section.

Date: November 8–9, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov*.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; HIV Coinfections and HIV Associated Cancers Study Section.

Date: November 8–9, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joshua D Powell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–5370, *josh.powell@nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Lifestyle and Health Behaviors Study Section.

Date: November 8–9, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lisa T. Wigfall, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007G, Bethesda, MD 20892, (301) 594–5622, *wigfalllt@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Endocrine and Metabolic Systems.

Date: November 9, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Victoria Martinez Virador, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–4703, *victoria.virador@nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Analytics and Statistics for Population Research Panel B Study Section.

Date: November 14–15, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Courtney M. Pollack, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3671, *courtney.pollack@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Metabolism and Reproductive Sciences.

Date: November 14, 2023.

Time: 12:00 p.m. to 5:00 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: Hui Chen, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, Bethesda, MD 20892, 301–435–1044, *chenhui@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Small Business for Endocrine, Metabolic Systems and Reproduction.

Date: November 15–16, 2023.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Bethesdan Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group Population and Public Health Approaches to HIV/AIDS Study Section.

Date: November 15–16, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aubrey Spriggs Madkour, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000C, Bethesda, MD 20892, (301) 594–6891, *madkouras@csr.nih.gov.*

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group HIV Immunopathogenesis and Vaccine Development Study Section.

Date: November 15–16, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Small Business: Small Business Innovation Research/Small Business Technology Transfer.

Date: November 16–17, 2023.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jennifer Di Noia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000E, Bethesda, MD 20892, (301) 594–0288, *dinoiaj2@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group Aging, Injury, Musculoskeletal, and Rheumatologic Disorders Study Section.

Date: November 16–17, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nketi I. Forbang, MD, MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1006K1, Bethesda, MD 20892, (301) 594–0357, *forbangni@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Clinical Care and Health Interventions.

Date: November 20, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jennifer Di Noia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000E, Bethesda, MD 20892, (301) 594–0288, *dinoiaj2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Topics in Endocrinology and Metabolism.

Date: November 28, 2023.

Time: 12:00 p.m. to 5:00 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: Jonathan Michael Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309, *jonathan.peterson@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Epidemiology and Population Health.

Date: November 30, 2023.

Time: 10:00 a.m. to 5:00 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: Nketi Innocent Forbang, MD, MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1006K1, Bethesda, MD 20892, (301) 594–0357, *forbangni@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21352 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Effectiveness and Implementation Research.

Date: November 3, 2023.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Claudio Dario Ortiz, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Rockville, MD 20892, 305–586–9937, *claudio.ortiz@nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BRAIN Initiative: Novel Tools to Probe Cells and Circuits in the Brain (R01) & Human and NHP Brain (UG3/UH3).

Date: November 7, 2023.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Initial Review Group; Effectiveness of Mental Health Interventions Study Section.

Date: November 7, 2023.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, Bethesda, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Regina T. Dolan-Sewell, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Bethesda, MD 20852, (240) 796–6785, *regina.dolan-sewell@nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Suicide Prevention Across the Life Span in LMICs.

Date: November 14, 2023.

Time: 9:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Claudio Dario Ortiz, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Rockville, MD 20892, 305–586–9937, *claudio.ortiz@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: September 26, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21444 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIHAI75N93023R00003: Pre-clinical Models of Infectious Diseases-Task Area D.

Date: October 30, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G74, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Hailey Petersen Weerts, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G74, Rockville, MD 20852, (240) 669–5931, *hailey.weerts@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21361 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Education Program To Enhance Diversity in Biomedical Research.

Date: November 13, 2023.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Shelley Sehnert, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Suite 208–T, Bethesda, MD 20817, (301) 827–7984, *ssehnert@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung

Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21307 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Complementary and Integrative Health.

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.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: *https://videocast.nih.gov/.*

Name of Committee: National Advisory Council for Complementary and Integrative Health.

Date: January 19, 2024.

Closed: 10:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Bethesda, MD 20892 (Virtual Meeting).

Open: 1:00 p.m. to 4:00 p.m.

Agenda: Reports and Updates about Recent and Ongoing NCCIH Led or Involved Activities by NCCIH staff and its Director.

Place: National Institutes of Health, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Martina Schmidt, Ph.D., Director, Division of Extramural Activities, National Center for Complementary & Integrative Health, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, (301) 594–3456, *schmidma@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, email address, telephone number and when applicable, the business or professional affiliation of the interested person. Comments may be limited to up to 750 words. Any member of the public may submit written comments no later than January 6th, 2024 (14 days before the council meeting).

Information is also available on the Institute's/Center's home page: *https://www.nccih.nih.gov/news/events/advisory-council-86th-meeting,* where a more detailed agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: September 25, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21478 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Frederick National Laboratory Advisory Committee to the National Cancer Institute.

The meeting will be held virtually and is open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*).

Name of Committee: Frederick National Laboratory Advisory Committee to the National Cancer Institute.

Date: October 19, 2023.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: Ongoing and new activities at the Frederick National Laboratory for Cancer Research.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Contact Person: Christopher D. Kane, Ph.D., Health Science Administrator and Program Officer, NCI at Frederick Office of Scientific Operations, National Cancer Institute, National Institutes of Health, 1050 Boyles Street, Building 427, Room 4, Frederick, Maryland 21702, *christopher.kane@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: FNLAC: *https://deainfo.nci.nih.gov/advisory/fac/fac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 26, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21440 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; Technologies/Innovations for Improving Minority Health and Eliminating Health Disparities.

Date: November 15–17, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NIMHD, DEM II, Suite 800, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Office of Extramural Research Administration, National Institute on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 451–5953, *jingsheng.tuo@nih.gov.*

Dated: September 25, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21484 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Pathway to Independence Awards (K99/R00).

Date: October 30, 2023.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BRAIN Initiative F32 and K99 Review Panel.

Date: November 2, 2023.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: EMMA Perez-Costas, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20892, (240) 936–6720, *emma.perez-costas@nih.gov*.

Name of Committee: National Institute of Mental Health, Special Emphasis Panel; Silvio O. Conte Centers for Basic Neuroscience or Translational Mental Health Research (P50 Clinical Trial Optional).

Date: November 3, 2023.

Time: 9:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Evon Abisaid, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (301) 827–0399, *ereifejes@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group; Mental Health Services Study Section.

Date: November 8–9, 2023.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Bethesda, MD 20852, 301–443–1225, *aschulte@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Data Analysis and Coordination Center for the PsychENCODE Consortium (U24).

Date: November 8, 2023.

Time: 12:00 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Rebecca Steiner Garcia, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Bethesda, MD 20892–9608, 301–443–4525, *steinerr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: September 25, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21305 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Division of Intramural Research Board of Scientific Counselors, NIAID.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Division of Intramural Research Board of Scientific Counselors, NIAID.

Date: December 11–13, 2023.

Time: 7:45 a.m. to 10:00 a.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 50, Conference Room 1227/1233, 50 Center Drive, Bethesda, MD 20892.

Contact Person: Laurie Lewallen, Division of Intramural Research Program Support Staff, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 33, Room 1N24, 33 North Drive Bethesda, MD 20892, (301) 761–6362, *Laurie.Lewallen@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21363 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings.

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; P01 Review.

Date: October 31–November 3, 2023.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Li Jia, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–451–2854 *li.jia@nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN Initiative Connectivity across Scales (BRAIN CONNECTS): Specialized Projects for Scalable Technologies (U01 Clinical Trial Not Allowed).

Date: November 9, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Bo-Shiun Chen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Bethesda, MD 20852, 301–496–9223 *bo-shiun.chen@nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS R35 Study Section.

Date: November 27–29, 2023.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza National Airport, 1480 Crystal Drive, Arlington, VA 22202.

Contact Person: DeAnna Lynn Adkins, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–9223, *deanna.adkins@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21368 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; HEAL Initiative: Pain Therapeutics Development [Small Molecules and Biologics].

Date: October 30, 2023.

Time: 12:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Ana Olariu, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–9223, *Ana.Olariu@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN Initiative: Next-Generation Invasive Devices & Blueprint MedTech Translator.

Date: November 2, 2023.

Time: 10:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Ana Olariu, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–9223, *Ana.Olariu@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS Research Education Opportunities (R25 Clinical Trial Not Allowed).

Date: December 5, 2023.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Lataisia Cherie Jones, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–9223, *lataisia.jones@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: September 25, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–21360 Filed 9–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2023–0032]

DHS Data Privacy and Integrity Advisory Committee

AGENCY: Privacy Office, Department of Homeland Security (DHS).

ACTION: Committee management; notice of Federal advisory committee meeting.

SUMMARY: The DHS Data Privacy and Integrity Advisory Committee will meet on Tuesday, November 7, 2023, via virtual conference. The meeting will be open to the public.

DATES: The DHS Data Privacy and Integrity Advisory Committee will meet on Tuesday, November 7, 2023, from 9 a.m. to 11 a.m. E.D.T. The virtual meeting may end early if the Committee has completed its business.

ADDRESSES: The meeting will be held via a virtual forum (conference

information will be posted on the Privacy Office website in advance of the meeting at *www.dhs.gov/privacy-advisory-committee,* or call (202) 343–1717, to obtain the information). The Data Privacy and Integrity Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodation due to a disability to fully participate, please email Ms. Sandra L. Taylor at *sandra.taylor@hq.dhs.gov* or call (202) 343–1717 as soon as possible.

To facilitate public participation, we invite public comment on the issues to be considered by the Committee as listed in the ''**SUPPLEMENTARY INFORMATION**'' section below. A public comment period will be held during the meeting, and speakers are requested to limit their comments to three (3) minutes. If you would like to address the Committee at the meeting, please register in advance by contacting Sandra L. Taylor at the address provided below. The names and affiliations of individuals who address the Committee will be included in the public record of the meeting. The public comment period may end before the time indicated, following the last call for comments. Advanced written comments or comments for the record, including persons who wish to submit comments and who are unable to participate or speak at the meeting, should be sent to Sandra L. Taylor, Designated Federal Official, DHS Data Privacy and Integrity Advisory Committee, by October 23, 2023. All submissions must include the Docket Number (DHS–2023–0032) and may be submitted by any *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: PrivacyCommittee@hq.dhs.gov.* Include the Docket Number (DHS–2023–0032) in the subject line of the message.
- *Mail:* Sandra L. Taylor, Designated Federal Official, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, 2707 Martin Luther King, Jr. Avenue SE, Mail Stop 0655, Washington, DC 20598.

Instructions: All submissions must include the words ''Department of Homeland Security Data Privacy and Integrity Advisory Committee'' and the Docket Number (DHS–2023–0032). Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may wish to review the Privacy & Security Notice found via a link on the homepage of *www.regulations.gov.*

The DHS Privacy Office encourages you to register for the meeting in advance by contacting Sandra L. Taylor, Designated Federal Official, DHS Data Privacy and Integrity Advisory Committee, at *PrivacyCommittee@hq.dhs.gov.* Advance registration is voluntary. The Privacy Act Statement below explains how DHS uses the registration information you provide and how you may access or correct information retained by DHS, if any.

Docket: For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Advisory Committee, go to *http://www.regulations.gov* and search for docket number DHS–2023–0032.

FOR FURTHER INFORMATION CONTACT: Sandra L. Taylor, Designated Federal Official, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, 2707 Martin Luther King, Jr. Avenue SE, Mail Stop 0655, Washington, DC 20598, by telephone (202) 343–1717, or by email to *PrivacyCommittee@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA). The DHS Data Privacy and Integrity Advisory Committee provides advice at the request of the Secretary of Homeland Security and the DHS Chief Privacy Officer on programmatic, policy, operational, administrative, and technological issues within DHS that relate to personally identifiable information, as well as data integrity, transparency, information sharing, and other privacy-related matters. The Committee was established by the Secretary of Homeland Security under 6 U.S.C. 451.

Proposed Agenda

The Chief Privacy Officer will provide the Committee with an update on DHS Privacy Office activities and discuss Privacy Office fiscal year 2024 priorities. In addition, the Committee will receive an overview presentation of the Privacy Office's activities over the last 20 years. Further, the Chief Privacy Officer may issue a new tasking to the Committee. If you wish to submit written comments, you may do so in advance of the meeting by submitting them to Docket Number (DHS–2023–0032) at *www.regulations.gov* or by forwarding them to the Committee at the locations listed under the ''**ADDRESSES** section.'' The final agenda will be posted on or before October 23, 2023, on the Committee's website at *www.dhs.gov/dhs-data-privacy-and-integrity-advisory-committee-meeting-information.*

Privacy Act Statement: DHS's Use of Your Information Authority: DHS requests that you voluntarily submit information under the following authorities: The Federal Records Act, 44 U.S.C. 3101; the FACA, 5 U.S.C. chapter 10; and the Privacy Act of 1974, 5 U.S.C. 552a.

Principal Purposes: When you register to attend a DHS Data Privacy and Integrity Advisory Committee meeting, DHS collects your name, contact information, and the organization you represent, if any. DHS uses this information to contact you for purposes related to the meeting, such as to confirm your registration, to advise you of any changes to the meeting, or to assure that DHS has sufficient materials to distribute to all attendees. DHS may also use the information you provide for public record purposes such as posting publicly available transcripts and meeting minutes.

Routine Uses and Sharing: In general, DHS will not use the information you provide for any purpose other than the Principal Purposes above and will not share this information within or outside the agency. In certain circumstances, DHS may share this information on a case-by-case basis as required by law or as necessary for a specific purpose, as described in the DHS/ALL–002 Mailing and Other Lists System of Records Notice (November 25, 2008, 73 FR 71659).

Effects of Not Providing Information: You may choose not to provide the requested information or to provide only some of the information DHS requests. If you choose not to provide some or all of the requested information, DHS may not be able to contact you for purposes related to the meeting.

Accessing and Correcting Information: If you are unable to access or correct the information provided by using the method that you originally used to submit it, you may direct your request in writing to the DHS Deputy Chief FOIA Officer at *foia@hq.dhs.gov.* Additional instructions are available at *http://www.dhs.gov/foia* and in the DHS/ALL–002 Mailing and Other Lists System of Records referenced above.

Mason C. Clutter,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2023–21422 Filed 9–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7070–N–60]

30-Day Notice of Proposed Information Collection: Manufactured Home Construction and Safety Standards Act Reporting Requirements, OMB Control No.: 2502–0253

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* October 30, 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 *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. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Clearance Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; email *PaperworkReductionActOffice@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech 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 available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 14, 2023 at 88 FR 45237.

A. Overview of Information Collection

Title of Information Collection: Manufactured Home Construction and Safety Standards Act Reporting Requirements.

OMB Approval Number: 2502–0253.

OMB Expiration Date: January 31, 2024.

Type of Request: Revision of a currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: To carry out its responsibilities under the Manufactured Housing Construction and Safety Standards Act of 1974 (the Act), HUD issued the Federal Manufactured Home Construction and Safety Standards (the Standards), 24 CFR 3280. The Department has also issued the Manufactured Home Procedural and Enforcement Regulations (the Regulations), 24 CFR 3282, to enforce the Standards. OMB Collection 2502–0253 covers the majority of the information collection and recordkeeping requirements for the Standards and Regulations that support the programs administered by HUD's Office of Manufactured Housing Programs.

Respondents: Business or other for-profit; State, Local or Tribal Government; Individuals or Households.

Estimated Number of Respondents: 196.

Estimated Number of Responses: 197,326.

Frequency of Response: 1,007.

Average Hours per Response: 1.21.

Total Estimated Burden: 239,537.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Colette Pollard,

Department Reports Management Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2023–21491 Filed 9–28–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7075–N–12]

60-Day Notice of Proposed Information Collection: Assessing CDBG–DR and Disaster Recovery Outcomes of Renter Households, OMB Control No.: 2528–NEW

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 28, 2023.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can be submitted 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. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and can be sent to: Anna Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000 or email at *PaperworkReductionActOffice@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Anna Guido, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna Guido at *Anna.P.Guido@hud.gov,* telephone 202–402–5535 (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 available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Assessing CDBG–DR and Disaster Recovery Outcomes of Renter Households.

OMB Approval Number: 2528–XXXX.

Type of Request: New data collection.

Form Number: N/A.

Description of the need for the information and proposed use: The Office of Policy Development and Research (PD&R), at the U.S. Department of Housing and Urban Development (HUD), is proposing the collection of information for the HUDRD CDBG Disaster Recovery Outcomes of Renter Households Cooperative Agreement.

The goal of this research is to improve disaster recovery effectiveness for renter households by examining the disaster recovery outcomes of renter households and rental housing stock in places that received Community Development Block Grant-Disaster Recovery grants (CDBG–DR). This research is expected to help the Federal government, states, and communities throughout the United States improve disaster recovery effectiveness for renter households by providing information about how disaster recovery programs funded through CDBG–DR have different impacts on renters and homeowners, and how disasters impact affordable rental housing stock over time. This research will be used to assess renter outcomes, barriers to accessing recovery resources, and mechanisms of Federal and local implementation of CDBG–DR grants. Results from this study will support HUD in identifying opportunities for changes to legislation, policy and program implementation in disaster recovery to improve outcomes for renters.

This **Federal Register** Notice provides an opportunity to comment on the information collection for this study titled HUDRD CDBG Disaster Recovery Outcomes of Renter Households. The information collection is designed to support the study of disaster outcomes on renters, including to better understand CDBG–DR allocations across housing tenure, specifically for renters, identify successful processes with corresponding outcomes for rental housing recovery aid programs and translate this research into actionable programmatic recommendations with appropriate timelines, policy making and implementation changes to improve these outcomes. The study includes a survey, interviews and focus groups in communities that have received CDBG–DR funding.

Respondents: CDBG–DR grantee representatives and administrators; elected and appointed government officials in CDBG–DR grantee jurisdictions and municipalities; landlords and developers in CDBG–DR grantee jurisdictions; representatives from housing and tenant advocacy organizations; and renters living in CDBG–DR grantee jurisdictions.

Estimated Number of Respondents: This information collection will affect approximately 435 respondents. This includes: (1) 150 individual qualitative interviews with renters, rental property developers and landlords within the study area; (2) 185 responses to a renter focused survey; (3); (4) 50 focus group participants in 5 focus groups; and (5) 50 responses to a survey of CDBG–DR recipients.

Estimated Time per Response: Interviews are expected to take one hour each, surveys of renters are expected to take 30 minutes each, surveys of CDBG–DR recipients are expected to take up to one hour each, and renter focus groups are expected to take four hours and will meet twice. The total estimated time is 692.5 hours.

Frequency of Response: One time for each interview and survey. Focus groups will meet twice.

Estimated Total Annual Cost: $30,576.48 for all individual document/information solicited for related research activities covered under approval for researchers conducting primary (interview, survey, focus group) data collection and research participants.

The Table below provides the estimated burden hours for in-person focus groups, interviews, and survey data collection. These estimates assume the maximum targeted number of study participants and are calculated as the time needed to complete individual surveys and interviews or participate in focus groups.

Calculating the annual total cost burden to respondents, the project team utilized Occupational Employment Statistics from the U.S. Department of Labor's Bureau of Labor Statistics to identify the median hourly wages (as classified by Standard Occupational Classification, SOC, codes) for potentially relevant occupations for interview and focus group participants.

ANNUALIZED BURDEN TABLE

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Cost
Interviews with renters, developers, landlords.	150	1	1	1	150	$43.07	$6,460.5
Surveys of Renters	185	1	1	0.5	92.5	43.07	3,983.98
Renter focus groups	50	1	2	4	400	43.07	17,228.00
Survey of CDBG–DR recipients	50	1	1	1	50	58.08	2,904.00
Total	435				692.5		30,576.48

Respondent's Obligation: Participation is voluntary.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected, and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Kurt G. Usowski,

Deputy Assistant Secretary for Economic Affairs.

[FR Doc. 2023–21438 Filed 9–28–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[234A2100DD/AAKC001030/A0A501010.999900]

HEARTH Act Approval of Prairie Band Potawatomi Nation Residential Leasing Ordinance Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) approved the Prairie Band Potawatomi Nation Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into residential leases without further BIA approval.

DATES: BIA issued the approval on September 21, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Clark, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, *carla.clark@bia.gov,* (702) 484–3233.

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal Leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Prairie Band Potawatomi Nation.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act. Section 5 of the Indian Reorganization Act (IRA), 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 5108 of the IRA preempts State taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' *See Seminole Tribe of Florida* v. *Stranburg,* 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of ''traditional notions of Indian self- government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' H. Rep. 112–427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan* v. *Bay Mills Indian Community,* 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better

positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 810–11 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the 25 CFR part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or 25 CFR part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Prairie Band Potawatomi Nation.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2023–21301 Filed 9–28–23; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[234A2100DD/AAKC001030/A0A501010.999900]

Proclaiming Certain Lands as Reservation for Confederated Tribes of the Chehalis Reservation of Washington

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 254.363 acres, more or less, as an addition to the reservation of Confederated Tribes of the Chehalis Reservation of Washington.

DATES: This proclamation was made on September 21, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Carla H. Clark, Bureau of Indian Affairs, Acting Division Chief, Division of Real Estate Services, 1001 Indian School Road NW, Box #44, Albuquerque, New Mexico 87104, *Carla.Clark@bia.gov,* (720) 424–3233.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation is issued in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 5110) for the lands described below. The lands are proclaimed to be the Confederated Tribes of the Chehalis Reservation of Washington for Chehalis Tribe in Thurston and Grays Harbor County, Washington.

Confederated Tribes of the Chehalis Reservation of Washington, 7 Parcels, Willamette Meridian, Thurston County and Grays Harbor County, Washington Legal Descriptions Containing 254.363 Acres, More or Less

105–T2213

Parcel A

That part of Tract 19 of Jackson Fruit Tracts as recorded in Volume 8 of Plats, Page 54, described as follows:

Beginning at the Northwest corner of said Tract 19; thence East 300 feet to the True Point of Beginning; thence South 145 feet thence West 25 feet; thence South to the North right-of-way line of County Road; thence Easterly along said right-of-way to the East line of said Tract 19; thence North to the South right-of-way line of Second Street thence West along right-of-way line to the Point of Beginning. Together with that part of vacated road adjoining said premises on the South which was vacated in Volume 28 of the County Commissioner's minutes, Page 246.

Parcel B

The West 300 feet of the North 145 feet of Tract 19, Jackson Fruit Tracts, as recorded in Volume 8 of Plats, page 54; Excepting therefrom the West 2A30 feet.

Parcel C

That part of the East 110 feet of the West 275 feet of Tract 19 of Jackson Fruit Tracts as recorded in Volume 8 of Plats, Page 54, lying Northerly of County Road. Excepting therefrom the North 145 feet and the West 230 feet of the South 45 feet of the North 190 feet of said Tract 19. Together with that part of vacated County Road adjoining said premises on the South which was vacated in Volume 28 of County Commissioner's minutes, Page 245.

Parcel D

The West 230 feet of the North 190 feet of Tract 19, Jackson Fruit Tracts, as recorded in Volume 8 of Plats, Page 54. Excepting therefrom that portion conveyed to Thurston County by deed recorded February 10, 1998, under Auditor's File No. 3134738.

Parcel E

The West 165 feet of that portion of Tract 19 of Jackson Fruit Tracts as recorded in Volume 8 of Plats, Page 54, lying Northerly of Tract conveyed to the State of Washington by deed dated October 28, 1952, and recorded under file no. 514194; together with that part, if any, of vacated road adjoining said premises on the Southeast which was vacated in Volume 28 of County Commissioner's minutes, Page 245.

Excepting therefrom the Northerly 190 feet; and that portion lying in Tract conveyed to the State of Washington by deed dated June 27, 1958 and recorded under file no. 599495. And Excepting therefrom that portion conveyed to Thurston County by deed recorded February 10, 1988, under file no. 3134737. In Thurston County Washington. Containing 4.47 acres, more or less.

105–T2210

Parcel A

The South 445 feet of Government Lot 4 in Section 3, Township 16 North, Range 5 West of the Willamette Meridian; Situate in the County of Grays Harbor, State of Washington.

Parcel B

The South 879.78 feet of Government Lot 1, Except the East 363 feet thereof;

The East 11 acres of Government Lot 1, Except the right of way of the Northern Pacific Railway Company; and Government Lot 1, Except the East 11 acres thereof; Also Except the South 879.78 feet thereof; All in Section 10, Township 16 North, Range 5 West of the Willamette Meridian; Situate in the County of Grays Harbor, State of Washington.

Parcel C

A portion of Sections 10 and 11, Township 16 North, Range 5 West of the Willamette Meridian described as follows:

Commencing at the East Quarter corner of Section 10; Thence North 03°23′26″ East along the line between Sections 10 and 11, a distance of 704.35 feet to the true point of beginning; Thence North 86°21′40″ West parallel with the said North line of Government Lot 2 a distance of 820.49 feet to the East edge of the Chehalis River;

Thence North 14°24′05″ West along the edge of said Chehalis River a distance of 363.61 feet; Thence North 22°04′26″ West to the North line of said Government Lot 2 a distance of 300.25 feet; Thence South 86°21′40″ East along said North line of Government Lot 2 to the Northeast corner of said Government Lot 2 a distance of 1,060.69 feet; Thence continuing along said line South 86°21′40″ East to the centerline of Elma-Gate County Road a distance of 511.43 feet; Thence South 00°09′58″ West along said centerline a distance of 617.39 feet; Thence North 86°21′40″ West 546.16 feet to the point of beginning,

Except Burlington Northern Railroad Right of Way;

(Also known as Lot 1 of Grays Harbor County Large Lot Subdivision No. 2008–1690, recorded September 14, 2009, under Auditor's File No. 2009–09140044, records of Grays Harbor County;)

Situate in the County of Grays Harbor, State of Washington.

Parcel D

A portion of Sections 10 and 11, Township 16 North, Range 5 West of the Willamette Meridian described as follows:

Commencing at the East Quarter corner of Section 10 and the true point of beginning;

Thence North 86°32′42″ West to the East edge of the Chehalis River a distance of 573.32 feet; Thence North 17°55′08″ West along the East edge of said Chehalis River a distance of 313.50 feet; Thence North 14°24′05″ West to a line parallel with the North line of Government Lot 2 a distance of 436.05 feet; Thence South 86°21′40″ East to the intersection of the Section line between said 10 and 11 a distance of 820.49 feet; Thence continue South 86°21′40″ East to the centerline of the Elma-Gate County Road a distance of 546.16 feet; Thence South 00°09′58″ West along said centerline a distance of 188.27 feet to the beginning of a concave curve to the East having a radius point that bears South 89°50′02″ East 3,157.28 feet; Thence continuing along an arc having a central angle of 09°17′22″ a distance of 511.89 feet; Thence North 87°16′21″ West 624.84 feet to the point of beginning;

Except Burlington Northern Railroad Right of Way;

(Also known as Lot 2 of Grays Harbor County Large Lot Subdivision No. 2008–1690, recorded September 14, 2009, under Auditor's File No. 2009–09140044, records of Grays Harbor County;)

Situate in the County of Grays Harbor, State of Washington.

Parcel E

That portion of the Northwest Quarter of the Northwest Quarter lying South and West of the Old State Highway in Section 11, Township 16 North, Range 5 West of the Willamette Meridian; Situate in the County of Grays Harbor, State of Washington.

Containing 95.265 acres, more or less.

105–T2214

Parcel A

That part of the SE¼ of the SW¼ of Section 16, Township 17 North, Range 2 West, W.M., described as follows:

Beginning at a point on the South line of said Section 16 that is 1,806.55 feet East of its Southwest corner; Thence North 660 feet; Thence East 164.25 feet; Thence South 660 feet; Thence West 164.25 feet to the Point of Beginning; Excepting therefrom the South 30 feet for the County Road known as Lathrop Road, 93rd Avenue SW in Thurston County, Washington. Commonly known as 2828 93rd Ave. SW, Olympia, Washington 98512.

Parcel B

That part of the SE¼ of the SW¼ of Section 16, Township 17 North, Range 2 West, W.M., described as follows:

Beginning at a point on the South line of said Section 16 that is 1,642.3 feet East of its Southwest corner; Running Thence East along said South line 164.25 feet; Thence North 660 feet; Thence East 164.25 feet; Thence North 660 feet, more or less; to the North line of said SE¼ of SW¼; Thence Westerly along said North line 328.5 feet, more of less; Thence South 1,320 feet, more or less, to the Point of Beginning; Excepting therefrom the South 30 feet for County Road known as Lathrop Road, 93rd Avenue SW in Thurston County, Washington. Commonly known as 2842 93rd Ave. SW, Olympia, Washington 98512. Containing 9.86 acres, more or less.

157–T1231

The Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 30, Township 16 North, Range 4, West of the Willamette Meridian; County of Grays Harbor, State of Washington.

Also: That portion of the South half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter, and of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 30, Township 16 North, Range 4, West of the Willamette Meridian, which lies West of the center line of a certain slough; Except that portion lying within the Dexter Newton County Road;

Also: That portion of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 30, Township 16 North, Range 4, West of the Willamette Meridian lying East of the center line of a certain slough and between the boundaries of Dexter Newton County Road extended westerly; Containing 13.19 acres, more or less.

157–T1250

The East 2⅔ rods of the North 24 rods of the Southeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 30, Township 16 North, Range 4 West of the Willamette Meridian;

And that part of the West 150 feet of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter of said Section 30 lying North of the centerline of Harris Avenue continued West;

Together with that portion of an alley 12 feet in width platted under the Line Addition to Oakville, as per plat recorded in Volume 4 of Plats, page 3, records of Grays Harbor, lying in the West 150 feet of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 30, Township 16 North, Range 4 West of the Willamette Meridian, as disclosed by Quit Claim Deed recorded September 18, 2015, under Auditor's File No. 2015–09180065, records of Grays Harbor County;

Except the East 16 feet of the West 236 feet of the North 24 rods of the Southeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 30, Township 16 North, Range 4 West of the Willamette Meridian; Situate in the County of Grays Harbor, State of Washington. Containing 4.92 acres more or less.

157–T1246

Parcel A

Government Lots 3 and 6, AND the Southwest Quarter of the Northeast Quarter, Except Railroad right-of-way;

Also: The North Half of the Southeast Quarter, Except a tract of land originally conveyed to Max Porstmann by Oscar Blechschmidt and Jessie H. Blechschmidt, husband and wife, by deed dated February 8, 1919 and recorded in Volume 140 of Deeds, page 481, records of Grays Harbor County, which tract is described as follows:

A triangular tract of land lying in the Northeast Quarter of the Southeast Quarter of Section 1, Township 15 North, Range 5 West of the Willamette Meridian, beginning at a point on the Section line 645 feet South of the Quarter post; Thence running South 675 feet;

Thence West 450 feet; Thence Northeasterly 850 feet to the point of beginning;

Except South Bank Road and Garrard Creek County Road;

And Except that portion of Government Lot 3 and that portion of the Southwest Quarter of the Northeast Quarter of Section 1, Township 15 North, Range 5 West of the Willamette Meridian, lying Westerly of the Westerly right-of-way line of South Bank County Road as conveyed to County of Grays Harbor by Right-of-Way Deed, recorded December 27, 1932, under Auditor's File No. 300850 in Volume 213 of Deeds, page 108, records of Grays Harbor County;

Also Except that portion of the Northeast Quarter of Section 1, Township 15 North, Range 5 West of the Willamette Meridian, lying Southerly of the Chehalis River and Northerly of the Union Pacific Railroad right of way, the Southwesterly line of which currently measures 500 feet, more or less;

All situate in Section 1, Township 15 North, Range 5 West of the Willamette Meridian; Situate in the County of Grays Harbor, State of Washington.

Parcel B

Commencing at the Northwest corner of the Southeast Quarter of the Southeast Quarter of Section 1, Township 15 North, Range 5 West of the Willamette Meridian; Thence South 56°20′16″ East 88.6 feet; Thence North 86°28′56″ East 533 feet, more or less, to the North line of said subdivision and the point of the beginning; Thence North 88°27′04″ East along said North line, 180 feet, more or less, to the Westerly boundary of Garrard Creek County Road; Thence South along the Westerly boundary of Garrard Creek County Road and along said boundary as the same curves Westerly to a point on said boundary that lies South 86°28′56″ West of the point of beginning; Thence North 86°28′56″ East to the point of beginning;

Excepting therefrom that portion lying within the North 300 feet of the East 26 feet of the West 726 feet of the said Southeast Quarter of the Southeast Quarter;

Also: That portion of the Southeast Quarter of the Southeast Quarter and that portion of the Southwest Quarter of the Southeast Quarter of Section 1, Township 15 North, Range 5 West of the Willamette Meridian, lying North of the Garrard Creek County Road;

Excepting therefrom that portion lying Southerly of the following described line:

Commencing at the Northwest corner of the Southeast Quarter of the Southeast Quarter; Thence South 56°20′16″ East 88.6 feet to the North boundary of the Garrard Creek County Road and the point of beginning; Thence North 86°28′56″ East 533 feet, more or less, to the North line of said subdivision and the terminus of said line; Situate in the County of Grays Harbor, State of Washington. Containing 113.96 acres, more or less.

105–T2211

Parcel A 9.577 Acres

All that portion of Parcel ''X'' lying within Government Lots 5 and 6, Section 36, Township 16 North, Range 5 West of the Willamette Meridian.

Parcel X

All those parts of Lots 5 and 6, Section 36, Township 16 North, Range 5 West of the Willamette Meridian, included within the boundaries of a strip of land 150 feet in width, being 75 feet on each side of the center line of the Grays Harbor and Puget Sound Railway Company's railroad as the same is located and staked out upon the ground over and across the said Lots 5 and 6, of said Section 36; The course of said center line across said Section 36 being more particularly described as follows, to-wit:

Beginning at the point of intersection of said center line with the South boundary line of said Section 36 at railway survey Station No. 2138+57, which point is 2,427.7 feet East of the Southwest corner of said Section 36; Thence North 33°56′ West 745.93 feet to Station no. 2131+11.07; Thence on a tapered curve to the right through an angle of 0°54′ 60 feet to Station No. 2130+51.07; Thence on a 3° curve to the right 1,455.00 feet to Station No. 2115+96.07; Thence on a tapered curve to the right through an angle of 0°54′ 60 feet to Station No. 2115+36.07; Thence North 11°31′ East 334.49 feet to Station No. 2112+01.58; Thence on a tapered curve to the left through an angle of 3° 120 feet to Station No. 2110+81.58; Thence on a 5° curve to the left 1,009.33 feet to Station No. 2100+72.25; Thence on a tapered curve to the left through an angle of 3° 120 feet to Station No. 2099+52.25; Thence North 44°57′ West 1,135.45 feet to Station No. 2088+16.8; Thence on a 0°30′ curve to the right 839.5 feet to Station No. 2079+77.3 and point of intersection of said center line with West line of said Section 36, which point is 333.4 feet South of the Northwest corner of said Section 36;

Also: An additional strip of land 25 feet in width lying Easterly of, parallel with and contiguous to the 150 foot strip hereinabove described the Southerly boundary of said 25 foot strip being a line drawn through Station No. 2112+01.58 at right angles to said center line and the Northerly boundary thereof being the North line of Lot 6, of said Section 36;

Also: An additional strip of land, triangular in shape, lying in Lot 6, of said Section 36, bounded on the East by the 150 foot strip of land first hereinabove described; on the North by the North line of said Lot 6, and on the West by a line extending Northwesterly from a point which is 75 feet Northwesterly of railway survey Station No. 2112+01.58 to a point which is 50 feet Southwesterly of railway survey Station No. 2100+00; the said 75 feet and 50 feet respectively being measured along a line drawn at right angles to the center line hereinabove described;

Parcel B 3.321 Acres

A portion of Government Lot 5, Section 36, Township 16 North, Range 5 West of the Willamette Meridian, more particularly described as follows:

That portion of said Government Lot 5 lying Easterly of Garrard County Road;

Excepting therefrom all that portion of the former railroad right-of-way described in Parcel A above:

Situate in the County of Grays Harbor, State of Washington.

Containing 12.90 acres, more or less

The above-described lands contain a total of 254.363 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect title to the lands described above, nor does it affect any valid existing easements for public roads, highways, public utilities, railroads and pipelines, or any other valid easements or rights-of-way or reservations of record.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2023–21300 Filed 9–28–23; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[234A2100DD/AAKC001030/ A0A51010.999900]

Proclaiming Certain Lands as Reservation for Kalispel Indian Community of the Kalispel Reservation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 20.06 acres, more or less, as an addition to the reservation of Kalispel Indian Community of the Kalispel Reservation.

DATES: This proclamation was made on September 21, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Carla H. Clark, Bureau of Indian Affairs, Acting Division Chief, Division of Real Estate Services, 1001 Indian School Road NW, Box #44, Albuquerque, New Mexico 87104, *Carla.Clark@bia.gov,* (720) 424–3233.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation is issued in accordance with the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 5110) for the lands described below. The lands are proclaimed to be the Kalispel Reservation for the Kalispel Indian Community of the Kalispel Reservation in Pend Oreille County, Washington.

Parcel No.: 443205320003; 14962 HWY 211 Property (a.k.a. Gould Property)

103–T1025

That portion of the Northwest Quarter of the Southwest Quarter of Section 5, Township 32 North, Range 44 E. W.M., Pend Oreille County, Washington, lying West of Highway 20 and East of Highway No. 211 (formerly No. 6B).

Situate in Pend Oreille County, Washington

Containing 20.06 acres, more or less.

The above described lands contain a total of 20.06 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect title to the lands described above, nor does it affect any valid existing easements for public roads, highways, public utilities, railroads and pipelines, or any other valid easements or rights-of-way or reservations of record.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2023–21297 Filed 9–28–23; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[234A2100DD/AAKC001030/ A0A501010.999900]

HEARTH Act Approval of Soboba Band of Luiseño Indians, California Residential Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) approved the Soboba Band of Luiseño Indians, California Residential Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into residential leases without further BIA approval.

DATES: BIA issued the approval on September 21, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Clark, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, *carla.clark@bia.gov,* (702) 484–3233.

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal Leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Soboba Band of Luiseño Indians, California.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act. Section 5 of the Indian Reorganization Act (IRA), 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 5108 of the IRA preempts State taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' *See Seminole Tribe of Florida* v. *Stranburg,* 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised

leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of ''traditional notions of Indian self- government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' H. Rep. 112–427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan* v. *Bay Mills Indian Community,* 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 810–11 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the 25 CFR part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or 25 CFR part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Soboba Band of Luiseño Indians, California.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2023–21298 Filed 9–28–23; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[234A2100DD/AAKC001030/A0A501010.999900]

HEARTH Act Approval of Prairie Band Potawatomi Nation Agricultural Leasing Ordinance Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) approved the Prairie Band Potawatomi Nation Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into agricultural leases without further BIA approval.

DATES: BIA issued the approval on September 21, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Clark, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, *carla.clark@bia.gov,* (702) 484–3233.

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal Leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Prairie Band Potawatomi Nation.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under

Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act. Section 5 of the Indian Reorganization Act (IRA), 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 5108 of the IRA preempts State taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' *See Seminole Tribe of Florida* v. *Stranburg,* 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of ''traditional notions of Indian self- government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' H. Rep. 112–427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan* v. *Bay Mills Indian Community,* 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 810–11 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the 25 CFR part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or 25 CFR part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Prairie Band Potawatomi Nation.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2023–21299 Filed 9–28–23; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CA_FRN_MO4500173171]

Notice of Availability of the Draft Resource Management Plan and Environmental Impact Statement for the Redding and Arcata Field Offices and an Associated Environmental Impact Statement, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Northwest California Integrated Draft Resource Management Plan and Draft Environmental Impact Statement (Draft RMP/EIS) for the Redding Field Office and Arcata Field Office. By this notice, the BLM is providing information announcing the opening of the comment period on the Draft RMP/EIS and is announcing the comment period on the BLM's proposed areas of critical environmental concern (ACECs).

DATES: This notice announces the opening of a 90-day comment period for the Draft RMP/EIS beginning with the date following the Environmental Protection Agency's (EPA) publication of its Notice of Availability (NOA) in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

To afford the BLM the opportunity to consider comments in the Proposed RMP/Final EIS, please ensure that the BLM receives your comments prior to the close of the 90-day public comment period or 15 days after the last public meeting, whichever is later.

In addition, this notice also announces the opening of a concurrent 60-day comment period for ACECs. The BLM must receive your ACEC-related comments by November 28, 2023.

The BLM plans to hold at least one virtual and at least two in-person public meetings, in Redding and Arcata, California during the 90-day public comment period. The dates and locations of the meetings will be announced at least 15 days in advance through local media, social media, newspaper, and the ePlanning website (see **ADDRESSES** section).

ADDRESSES: The Draft RMP/EIS is available for review on the BLM National NEPA Register project website at *https://eplanning.blm.gov/eplanning-ui/project/2012803/510.*

Written comments related to the Northwest California Integrated Resource Management Plan (NCIP) may be submitted by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2012803/510*
- *Email: BLM_CA_Redding_Arcata_NCIP@blm.gov*
- *Mail:* NCIP Comments, Bureau of Land Management, 1695 Heindon Road, Arcata, California 95521–4573

Documents pertinent to this proposal may be examined online at *https://eplanning.blm.gov/eplanning-ui/project/2012803/510* or the Redding or Arcata field offices.

FOR FURTHER INFORMATION CONTACT: Victoria Callahan, Planning and Environmental Specialist, telephone: (707) 825–2315; address: Bureau of Land Management, Arcata Field Office, 1695 Heindon Road, Arcata, California 95521–4573; email: *vslaughter@blm.gov* or Chad Endicott, Planning and Environmental Specialist, telephone: (530) 224–2140; address: Bureau of Land Management, Redding Field Office, 6640 Lockheed Drive, Redding, CA 96002–9003; email: *cendicott@blm.gov.*

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Callahan or Mr. Endicott. 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: This document provides notice that the BLM California State Director has prepared a Draft RMP/EIS, provides information announcing the opening of the comment period on the Draft RMP/EIS, and announces the comment period on the BLM's proposed ACECs. The planning area is in Mendocino, Humboldt, Del Norte, Siskiyou, Trinity, Shasta, Tehama, and Butte counties, California, and encompasses approximately 382,200 acres of public land and approximately 295,100 subsurface acres of Federal mineral estate.

Current Arcata Field Office and Redding Field Office management is identified in their respective 1992 and 1993 RMPs. All existing management as described in the Arcata Field Office and Redding Field Office approved RMPs remains in effect until and unless replaced or modified by the Northwest California Integrated Resource Management Plan Approved RMP and Record of Decision. Separate management plans guide BLM management for National Conservation Land units within the planning area.

Other non-BLM-administered lands within the planning area include the Six Rivers, Shasta-Trinity, Klamath, Lassen, Plumas, and Mendocino National Forests; Lassen Volcanic and Redwoods National Parks; the Whiskeytown and Smith River National Recreation Areas; the Sacramento Castle Rock and Humboldt Bay National Wildlife Refuges; and Black Butte Lake (managed by the US Army Corps of Engineers). In addition, Tribal lands and reservations for 31 federally recognized Native American Tribes fall within the planning area, and the BLM-administered lands include sacred sites, gathering areas, and other places important to Tribes. The Bureau of Reclamation manages numerous land holdings and facilities within the planning area, including six hydroelectric dams and lands that are comanaged with the BLM under a memorandum of agreement with the Redding Field Office near the Shasta Dam and Keswick Reservoir. In addition to federally managed lands, there are an extensive number of State of California-managed beaches, parks, wildlife areas, and recreation areas in the planning area. The Arcata Field Office and Redding Field Office have taken these non-BLM-administered lands into account in this planning effort.

Public comments received during the public scoping period held between April 29, 2022, and June 28, 2022, were reviewed and taken into consideration in the development of the Draft RMP/EIS. Additionally, comments submitted by other government agencies, public organizations, State, and Tribal entities, and interested individuals were given careful consideration. Public scoping efforts enabled the BLM to identify and shape significant issues pertaining to recreational opportunities, special designations, land tenure, cultural resources, and other program areas. Cooperating agencies were provided the opportunity to review and comment on the proposed range of alternatives during the alternative's development process. A summary of the public involvement process and comments received can be viewed on the BLM National NEPA Register (see **ADDRESSES**).

Purpose and Need for the Planning Effort

The purpose of and need for the plan identified in the sections below describes why the BLM is revising the existing RMPs and what outcomes the BLM intends the new RMP to achieve. The purpose and need incorporates information identified in past planning efforts and supporting analyses, including the 1992 Arcata RMP, 1993 Redding RMP, 2002 Redding RMP plan evaluation, 2009 Arcata RMP plan evaluation, 2016 initial RMP effort (including envisioning and scoping public meetings), pre-scoping public meetings held in early 2021, and public scoping held in 2022. The purpose and need helps to define the range of alternatives that are analyzed in the planning process because alternatives are only considered reasonable if they respond to the purpose of and need for action.

Need for the Action: The Federal Land Policy and Management Act of 1976, as amended, establishes the BLM's multiple-use and sustained-yield mandate to serve present and future generations. To meet this overarching mandate, FLPMA requires the BLM to ''develop, maintain, and, when appropriate, revise land use plans'' (43 U.S.C. 1712 (a)). Consistent with the BLM's planning regulations, RMPs ''shall be revised as necessary based on monitoring and evaluation findings, new data, new or revised policy and changes in circumstances affecting the entire plan or major portions of the plan'' (43 CFR 1610.5–6).

Many factors affecting daily management decisions faced by the Field Offices (FOs) have changed since the development of the existing Arcata and Redding RMPs. These factors include updated special status species lists, changes to endangered species recovery plans, population growth, changes in land tenure, shifting focus away from annual quotas for forestry and wildfire and fuels management programs, larger and higher-intensity wildland fires, increasing demand for fuels reduction projects, and increases in recreational use. Additionally, the accelerated pace of climate change and related climate impacts (including changes in temperature, precipitation, and water resources), and higher intensity wildland fires within the planning area are environmental drivers that have also caused management decisions to shift since the existing RMPs were finalized. Additional resource information, changing social perspectives, new technologies, and federal mandates have also generated important justifications for revising these preliminary RMPs.

Arcata and Redding FO RMP Plan Evaluations: In 2009, the Redding FO and Arcata FO conducted RMP evaluations that, with the addition of new resource information, changing social perspectives, new technologies,

and federal mandates, highlighted the need for revising the RMPs. The NCIP would enable the BLM to guide management actions based on up-to-date information reflecting current public input, changes in policy, resource conditions, and development trends. The planning issues and resources identified in the 2009 evaluations to be addressed in the NCIP include responding to changes in land tenure, changes in wilderness designations, new species listings, new forest pathogens, climate change, sea-level rise, fuels management, wildland fire suppression and management, human population growth, Tribal empowerment, and the need to reassess determinations regarding ACECs and Special Recreation Management Areas (SRMAs).

Additional Considerations: The need for the RMP revisions has remained crucial given the recent cumulative changes to resource conditions, primarily due to catastrophic wildland fire within the planning area. Incorporating over three decades of scientific studies and new management approaches into a revised RMP would greatly benefit future decision-making and bring the FOs' planning guidance into compliance with legislative mandates, executive orders, current DOI policies, and current land management standards. The NCIP would also facilitate coordination of the Arcata and Redding FOs' land management with that of adjacent public lands managed by the US Department of Agriculture Forest Service, US Bureau of Reclamation, US Fish and Wildlife Service, other federal and state agencies, and Tribes.

Purpose of the Action: The purpose of the NCIP is to make land use decisions to guide the management of BLM-managed lands within the planning area. Planning decisions would integrate current law and policies as well as current information to resolve primary issues identified in the planning area, specifically related to increasing human population and changing use patterns, wilderness management, climate change, special status species, and land tenure.

Climate Change, Sea-Level Rise, and Ecosystem Resiliency: Climate change and sea-level rise will continue to affect the planning area. Impacts from rising sea levels will affect the management of coastal lands within the planning area. Coastal dunes that provide a buffer against sea-level rise and storm surges will change, and coastal lowlands will experience novel saltwater intrusion and resulting changes in vegetation. High-elevation areas in the planning area may become increasingly important refuge areas for species displaced from lower habitats. While projected changes in temperature, precipitation, and sea-level rise differ based on modeling assumptions, the magnitude of these changes is expected to increase during implementation of the NCIP.

By accounting for anticipated climate change effects during the planning process, the BLM would make management decisions that reflect the anticipated impacts on vulnerable resources to assure that public lands and ecosystems are resilient to sea-level rise, increasing temperatures, and changing precipitation patterns. Management would maintain habitat connectivity and resiliency, promote carbon sequestration by providing for the long-term health and productivity of vegetation communities, and implement best management practices to reduce emissions of greenhouse gases for authorized activities in accordance with regional and state climate goals. Additionally, the NCIP would allow the BLM to coordinate forestry actions to develop treatments that achieve silvicultural objectives while considering impacts on carbon sequestration, acquire land to manage for coastal resiliency, reduce or eliminate uses that degrade natural systems that protect the human environment from climate change, and contribute to regional habitat and water quality monitoring efforts.

Wildland Fire and Fuels Management: Managing for diverse, ecologically resilient landscapes and healthy forests will be central to adapting to a changing climate. Due to drought and abnormally warm temperatures, wildfires in California have increased in frequency, size, and severity, with 8 of the 20 largest fires in California's history occurring since 2017 and the area burned annually by wildfire in California increasing since 1950. Fire management in the Arcata and Redding RMPs does not include current guidance or best management practices for wildland fire management. During public outreach efforts, commenters expressed concern related to wildland fire risk and requested that fire response be considered in the proposed NCIP management actions. Public commenters highlighted how prescribed fire could be used to manage or improve landscape conditions, reduce the risk and damage from catastrophic wildfires, and improve the overall soil and ecosystem health of a region.

The NCIP would emphasize forest and vegetation management strategies that account for the protection of adjacent human values, public use, and public safety, while enhancing or maintaining ecosystem function and productivity. Wildland fire management strategies that establish multiple resource-based objectives in addition to public, infrastructure, and first responder safety would improve wildfire outcomes as fire occurrence, size, and severity increase. Planned treatments, such as hazardous fuels reduction through mechanical, biological, chemical, or manual means, would be identified, especially in high-risk or fire-prone portions of the planning area. Prescribed burning within fire-dependent ecosystems would be established as a priority management strategy to maintain disturbance regimes. To guide management decisions, the BLM will use the most up-to-date fuels treatment, planning, and analysis tools, including interagency spatial fire planning platforms and decision support tools that drive wildfire and fuels management planning.

Promote Recovery of Special Status Species: BLM-administered lands within the planning area have served as important habitat for listed and special status plants, fish, and animals. As climate change impacts increase and development of private lands intensifies, the importance of BLM-administered lands for the recovery of these species has continually increased and will continue to do so during the NCIP's implementation.

The NCIP is intended to enhance, maintain, or protect habitat and migration corridors for a range of special status species, including species identified as threatened and endangered under the Endangered Species Act of 1973 (ESA) and the California Endangered Species Act. The NCIP would bring management guidance in line with certain recovery plan recommendations for threatened and endangered species. Further, the NCIP will promote the recovery of special status populations and diminish or remove invasive, nonnative species through the management and restoration of habitats to promote long-term recovery of special status species.

Wilderness Management: The NCIP decision area includes approximately 50,040 acres of designated wilderness (approximately 13 percent of the decision area), including the Elkhorn Ridge (11,120 acres), Yuki (17,150 acres), South Fork Eel River (13,020 acres), Yolla Bolly-Middle Eel (8,550 acres), and Ishi (200 acres) Wilderness Areas. Most wilderness areas are surrounded by private lands that are managed for a variety of uses, including industrial forestry, rural development, and cannabis production. Preserving

wilderness character is a key component of wilderness management. Conducting wilderness character baseline assessments is essential to determine whether this goal is met.

The BLM will also manage wilderness study areas to preserve wilderness characteristics. The NCIP will provide the initial guidance for developing Wilderness Management Plans as funding becomes available.

Develop Land Tenure Patterns and Access Strategy: Through implementation of the existing RMPs over the past three decades, the BLM has made substantial changes in landownership through land tenure adjustments, including exchanges, acquisitions, and disposals. This change in landownership has been effective at consolidating BLM-administered lands and disposing of scattered parcels. Despite the success of these adjustments, many scattered parcels still exist in the planning area.

The NCIP will weigh the current land tenure adjustment strategies against other land tenure adjustment options and the needs of other resources, resource uses, and Tribal interests. This would ensure land tenure adjustment actions are in line with current management direction, policy, and law. The NCIP will identify criteria for consideration of lands for retention, disposal, and acquisition, and specify those parcels that meet the disposal criteria. Further, the NCIP will consider areas where consolidating BLM administration of lands would enhance public values, such as conservation of important resources, recreation and public access, and integration with the needs of local communities.

Provide for a Broad Array of Recreation Uses: Increasing human populations have also brought a large increase in recreation on BLM-administered lands, especially those lands near population centers, such as Redding, Chico, Eureka, and Arcata. The public currently engages in a wide array of recreation uses, such as hunting, fishing, boating, target shooting, bird-watching, biking, off-highway vehicle riding, and car touring. Previous public outreach efforts have identified a great deal of public interest in maintaining existing recreational opportunities and a desire for more opportunities (for example, hiking, biking, equestrian, and off-highway vehicle trails). The BLM has also experienced an increase in requests for organized events, such as races.

The BLM will manage recreation in the NCIP decision area by designating SRMAs and Extensive Recreation Management Areas (ERMAs). The NCIP will provide specific goals for recreation outcomes in each recreation management area (RMA). The NCIP will develop a range of recreation management area scenarios in relation to other land use allocations and management objectives among the alternatives, while providing public access, promoting public health and safety, and minimizing conflicting uses.

Respond to Increasing Population and Changing Use Patterns: Within the planning area, the human population has grown by 20 to 30 percent in some counties over the past three decades. With increasing population has come increased development near BLM-administered lands. Such development and attendant infrastructure have led to increased numbers of rights-of-way across BLM-administered lands.

The BLM must balance the increasing need for ROWs with protection of natural and cultural resources. The NCIP would continue to provide for the use of BLM-managed lands in accordance with applicable laws and regulations, manage the public lands in support of the goals and objectives of other resource programs, and support the use and development of adjacent private lands, through the issuance of ROWs, leases, and permits, where appropriate. Land use allocations would define resource uses and land designations to help resolve conflicts between infrastructure and resource protection.

Alternatives Including the Preferred Alternative

The BLM has analyzed four alternatives in detail, including the no action alternative. Three action alternatives (Alternatives B, C, and D) were identified based on perceived resource use and issues in the planning area. Alternative B emphasizes resource connectivity and resiliency and has been developed to manage for multiple use by maintaining corridors of relatively undeveloped area to provide for connectivity of wildlife and fisheries habitat and to serve as a resilient refuge from ongoing development and climate change. This, in turn, would provide a recreational and aesthetic resources for public enjoyment. Alternative C emphasizes community access and development. Alternative C also manages for multiple use and public enjoyment but emphasizes recreational opportunity and access, travel and utility opportunities, and social and economic benefits. Alternatives B and C would manage for multiple use and long-term sustainability and provide for public use and enjoyment of BLM-administered lands. Alternative D aims to create opportunities for resource uses, such as recreation, motorized and mechanized travel, and livestock grazing while maintaining ecological function and meeting land capability to protect habitat connectivity.

These alternatives are to be analyzed against the No Action Alternative (current management, Alternative A) and can be refined or combined to provide the best mix to meet the public's needs while complying with the BLM's management responsibilities and regulatory requirements. The BLM further considered one additional alternative but dismissed this alternative from detailed analysis as explained in the Draft RMP/EIS.

The State Director has identified Alternative D as the preferred alternative. Alternative D was found to best meet the State Director's planning guidance and, therefore, was selected as the preferred alternative because it attempts to strike a balance between the action alternatives to provide community access and development while ensuring connectivity and resilience by including components of all alternatives considered.

Areas of Critical Environmental Concern

Consistent with land use planning regulations, 43 CFR 1610.7–2(b), the BLM is announcing the opening of a 60-day comment period on the ACECs proposed for designation in the preferred alternative. Comments may be submitted using any of the methods listed in the **ADDRESSES** section earlier.

The proposed ACECs included in the preferred alternative are:

- Upper Burney Dry Lake and Baker Cypress, 210 acres, to protect the Rare Baker Cypress and mountain vernal pool habitat. Visual Resource Management (VRM) class III, right-of-way avoidance, off-highway vehicle limited (183 acres—Baker Cypress), off-highway vehicle closed (26 acres—Upper Burney Dry Lake), closed to mineral leasing, closed to mineral material development, not available for livestock grazing, and work cooperatively with surrounding landowners to prevent trespass, unauthorized grazing, and cross-county off-highway vehicle use.
- Butte Creek, 2,250 acres, to protect old-growth reserves and the Northern Spotted Owl. VRM class II, right-of-way avoidance, off-highway vehicle limited, not available for livestock grazing, closed to mineral leasing.
- Deer Creek, 570 acres, to protect the scenic qualities of the canyon, to ensure the long-term protection of the raptors in the area, conserve archaeological

resources, and protect ecologically intact habitat for wildlife. VRM class II, right-of-way avoidance, off-highway vehicle limited, closed to mineral leasing.

- Forks of Butte Creek, 2,900 acres, to protect scenic values, cultural resources, and fisheries. VRM class II, right-of-way exclusion, off-highway vehicle limited, closed to mineral leasing, withdrawn from mineral entry under Public Land Order 5329 (270 acres), closed to mineral material development, open to casual use gold panning, not available for livestock grazing, except for Helltown parcels which would be available, motor vehicle access to the day use area would be seasonally closed.
- Gillham Butte, 9,330 acres, to protect old-growth reserves. VRM class III, rights of way avoidance, off-highway vehicle limited, except where closed by deed restriction on acquired lands, closed to discharge of firearms where prohibited by deed restriction on acquired lands, closed to mineral leasing, closed to mineral material development, recommend for withdrawal from locatable mineral entry, not available for livestock grazing.
- Hawes Corner, 40 acres, to protect communities of slender Orcutt grass (*Orcuttia tenuis*). VRM class III, off-highway vehicle closed, closed to mineral leasing, closed to mineral material development, not available for livestock grazing, work cooperatively with surrounding landowners to prevent trespass, unauthorized grazing, and cross-country off-highway vehicle use.
- Iaqua Butte, 1,100 acres, to protect old-growth reserves. VRM class II, right-of-way avoidance, off-highway vehicle limited, closed to mineral leasing, recommend for withdrawal from locatable mineral entry, closed to mineral material development, not available for livestock grazing.
- Lacks Creek, 2,140 acres, to protect old-growth reserves. VRM class III, right-of-way avoidance, off-highway vehicle closed, closed to mineral leasing, closed to mineral material development except for free use by other agencies, not available for livestock grazing, seasonal limitations on mountain biking would be considered as necessary to limit conflict and provide for public safety.
- Ma-le'l Dunes, 206 acres, to protect sensitive plant and wetland habitat and cultural resources. VRM class II, right-of-way exclusion outside of existing rights-of -way, off-highway vehicle closed, closed to mineral leasing, recommend for withdrawal from locatable mineral entry, closed to mineral material development, not available for livestock grazing, day use only, surface disturbing activities would only be allowed if they are consistent with relevance and importance values or in an existing right of way.
- Sacramento Island, 90 acres, to protect rare riparian habitat and fisheries. VRM class III, right-of-way avoidance, off-highway vehicle closed, closed to mineral leasing, closed to mineral material development, not available for livestock grazing, except for target grazing by goats for weed control on case-by-case basis, day use only, closed to campfires.
- Sacramento River Bend, 20,420 acres, to protect cultural resources and rare habitats (vernal pools and wetlands that support slender Orcutt grass [*Orcuttia tenuis*]). VRM class II, right-of-way exclusion outside of existing rights-of-way, off-highway vehicle limited, closed to mineral leasing, closed to mineral material development, day use only, not available for livestock grazing in riparian areas, limit special recreation permits and non-special recreation permits group uses to minimize resource impacts in spring and fall, limit target shooting to designated areas.
- Shasta and Klamath River Canyon, 1,210 acres, to protect rare and sensitive riparian and fisheries habitat values. VRM class III, right-of-way avoidance outside of existing rights-of-way, off-highway vehicle limited, not available for grazing, recommend for withdrawal from locatable mineral entry, closed to mineral leasing, and closed to mineral material development.
- Swasey Drive, 470 acres, to protect cultural resources. VRM class III, right-of-way avoidance, not available for livestock grazing, closed to mineral material development, closed to mineral leasing, existing trails would continue to be maintained within the ACEC.
- Grass Valley, 19,560 acres, to protect fragile highly erosive soils, reduce sediment delivery to the Trinity River, and maintain the important stronghold to climate change and ecosystem resiliency and diversity. Right-of-way avoidance, off-highway vehicle limited, VRM class III north of State Highway 299, VRM class II south of State Highway 299, closed to mineral leasing, recommend for withdrawal from mineral entry, closed to mineral material development, not available for livestock grazing, maintain existing roads to minimize erosion and sedimentation.
- Upper and Lower Clear Creek, 4,560 acres, to protect and improve anadromous salmonid habitat and the scenic values of the Clear Creek canyon. VRM class III, right-of-way avoidance, off-highway vehicle limited, closed to mineral leasing, recommend for withdrawal from locatable entry, closed to mineral material development, with the exception of free use by other agencies, not available for livestock grazing, limited to day use only, prioritize riparian restoration and nonnative and invasive species management, special recreation permits for commercial guided fishing would not be issued.
- Sheep Rock, 1,410 acres, to protect irreplaceable scenic, wildlife, historic, and cultural values. VRM class II, right-of-way exclusion, off-highway vehicle limited, closed to mineral leasing, closed to mineral material development, unavailable for domestic sheep grazing or trailing (only if the U.S. Fish and Wildlife Service proposes bighorn sheep reintroduction in this area).
- Black Mountain, 1,100 acres, to protect irreplaceable old-growth coniferous forest habitat, unique geologic features, cultural resources, and wildlife. Right-of-way exclusion, off-highway vehicle limited, VRM class III, closed to mineral leasing, closed to mineral material development.
- Upper Klamath Bench, 90 acres, to protect prehistoric and historic archaeological resources. Right-of-way exclusion, off-highway vehicle closed, VRM class III, closed to mineral leasing, recommend for withdrawal from locatable mineral entry, closed to mineral material development, not available for livestock grazing, cultural sites may be fenced, trespass livestock removed to protect the cultural setting.
- Upper Mattole, 460 acres, to protect rare and sensitive riparian and fisheries habitat values. Right-of-way avoidance, off-highway vehicle limited, VRM class III, closed to mineral leasing, closed to livestock grazing.
- Beegum Creek Gorge, 4,380 acres, to protect scenic fisheries, wildlife resources, ecological intactness, and rare and sensitive geological and lithological features that support rare and endemic serpentine plant species. Right-of-way exclusion, off-highway vehicle limited, VRM class II, closed to mineral leasing, not available for livestock grazing, recommend for withdrawal from locatable mineral entry, closed to mineral material development, bulldozer use prohibited unless approved by an authorized officer.
- North Fork Eel, 500 acres, to protect sensitive geological and lithological features, along with fisheries, and wildlife resources. Right-of-way avoidance, off-highway vehicle closed, VRM class II (in Wild and Scenic River corridor), VRM class III (remaining acres), closed to mineral leasing, closed

to mineral material development, not available for livestock grazing.

- Willis Ridge, 3,180 acres, to protect old-growth reserves, along with fisheries and wildlife resources. VRM class III, right-of-way avoidance, off-highway vehicle limited, closed to mineral leasing, and closed to mineral material development.
- South Spit, 630 acres, to protect sensitive plant and wetland habitat and cultural resources. Right-of-way avoidance, off-highway vehicle limited, VRM class III, closed to mineral leasing, closed to mineral material development, day use only.
- Corning Vernal Pools, 170 acres, to protect critical habitat that supports threatened and endangered species. Right-of-way exclusion, off-highway vehicle closed, VRM class III, closed to mineral leasing, open to locatable mineral entry, closed to mineral material development, available to livestock grazing if compatible with vernal pool ecology and relevant and important values.
- North Table Mountain, 50 acres, to protect habitat that supports the rare Butte County Golden Clover (*Trifolium jokerstii*). Right-of-way exclusion, off-highway vehicle closed, VRM class III, closed to mineral leasing, recommend for withdrawal from locatable mineral entry, not available for livestock grazing, and closed to mineral material development.

More information on management of ACECs under the BLM's preferred alternative is available in Chapter 2, Table 2–2 and Chapter 3.4.1 of the Draft RMP/EIS.

The preferred alternative would not propose the following potential ACECs for designation: Swasey Drive Clear Creek Greenway and Eden Creek.

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation consistent with the NEPA and land use planning processes, including a 30-day public protest period and a 60-day governor's consistency review on the Proposed RMP. The Proposed RMP/Final EIS is anticipated to be available for public protest in the late spring of 2024 with an approved RMP and Record of Decision in late summer of 2024.

The BLM will hold at least one virtual and two in-person public meetings, in Redding and Arcata, California, on the Draft RMP/EIS during the 90-day public comment period. The specific date(s) and location(s) of these meetings will be announced at least 15 days in advance through local media, newspapers, and the BLM National NEPA Register project page (see **ADDRESSES**).

The BLM will continue to consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration.

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.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, 43 CFR 1610.7–2)

Karen E. Mouritsen,

State Director.

[FR Doc. 2023–21331 Filed 9–28–23; 8:45 am]

BILLING CODE 4331–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM–OR–FRN–MO4500170483]

Notice of Withdrawal Extension Application and Opportunity for Public Comment for the Halliday Fen Research Natural Area, Washington

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of withdrawal extension.

SUMMARY: The United States Department of Agriculture, United States Forest Service (USFS), has filed an application with the Bureau of Land Management (BLM) requesting that the Secretary of the Interior extend Public Land Order (PLO) No. 7614 for an additional 20 years. PLO No. 7614 withdrew 646.40 acres of National Forest System land from location and entry under the United States mining laws for 20 years, subject to valid existing rights, to protect the Halliday Fen Research Natural Area (RNA). This notice advises the public of a 90-day opportunity to comment on this application for a withdrawal extension and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by December 28, 2023.

ADDRESSES: All comments and meeting requests should be sent to the BLM Oregon/Washington State Director, P.O. Box 2965, Portland, Oregon 97208. The application and case file are available for public examination by interested persons by appointment at the BLM Public Room, 1220 SW 3rd Ave., 11th Floor, Portland, Oregon 97208 during regular business hours 8:00 a.m. to 4:30 p.m., Monday through Friday except holidays. Please call 503–808–6001 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Luke Poff, Realty Specialist, BLM Oregon/Washington State Office, (503) 808–6249, by email at *lpoff@blm.gov,* or at the address noted earlier. The USFS can be reached at the Colville National Forest Supervisor's Office, 765 South Main St., Colville, Washington 99114, (509) 684–7000. Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: PLO No. 7614 (69 FR 55448) withdrew 646.40 acres of National Forest System land in the Colville National Forest from location and entry under the United States mining laws for 20 years, subject to valid existing rights, to protect the RNA. The RNA preserves the unique characteristics, sensitive fauna, hydrology, and research values of the area, which includes a marl fen, western red cedar and western hemlock forests, and habitat for a variety of rare plant and animal species. The RNA is also within the Salmo Priest Grizzly Bear Management Unit, which is part of the Selkirk Grizzly Bear Recovery Zone in Pend Oreille County, Washington. This notice also revises the legal land description and acreage figure from the 646.40 acres stated in PLO No. 7614 to 646.37 acres. Unless further extended, the withdrawal will expire on September 9, 2024.

The legal land description and acreage figure written in PLO No. 7614 is revised to reflect the BLM Cadastral Survey's Specification for Descriptions of Land. The revised land description does not change the footprint of the lands withdrawn, which is as follows:

Colville National Forest

Willamette Meridian

T. 40 N., R. 44 E.,
Sec. 31, W½NE¼, SE¼NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼.

Together with portions of the following lands as specifically identified and described

by metes and bounds in the ''Boundary Description for Halliday Fen Research Natural Area to be Withdrawn from Mineral Location'' dated April 19, 2002, in the official records of the BLM Oregon/Washington State Office and the Colville National Forest Office, Colville, Washington:

T. 39 N., R. 43 E.,
Sec. 1, lot 1.
T. 40 N., R. 43 E.,
Sec. 36, E½SE¼.
T. 39 N., R. 44 E.,
Sec. 6, lots 2 thru 5, and SE¼NW¼.
T. 40 N., R. 44 E.,
Sec. 30, SE¼SW¼, NW¼SE¼, and S½SE¼;
Sec. 31, lots 1 thru 4, NE¼NE¼, NE¼NW¼, NE¼SE¼, and S½SE¼;
Sec. 32, W½NW¼ and NW¼SW¼.

The areas described aggregate 646.37 acres.

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately preserve the unique resources located at this site. There are no suitable alternative sites since preserving the unique resource within the lands described in PLO No. 7614 is the reason for the application for withdrawal extension.

Comments will be available for public review. 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 personally identifying information—may be made publicly available at any time. While you may ask the BLM in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

An opportunity for a public meeting may be afforded in connection with the application for withdrawal extension. All interested persons who desire a public meeting for the purpose of being heard on the application for this withdrawal extension must submit a written request to the State Director, BLM Oregon/Washington State Office at the address in the **ADDRESSES** section, within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the date, time, and place will be published in the **Federal Register** and local newspapers and posted on the BLM website at: *www.blm.gov* at least 30 days before the scheduled date of the meeting. This withdrawal extension application will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

(Authority: 43 U.S.C. 1714)

Dustin Webster-Wharton,

Branch Chief of Land, Mineral, and Energy Development, Bureau of Land Management, Oregon/Washington.

[FR Doc. 2023–21496 Filed 9–28–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OROR 016756]

Public Land Order No. 7930; Extension of Public Land Order No. 6476 for Wheeler Creek Natural Area; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order (PLO) No. 6476, as extended by PLO No. 7572, for an additional 20-year period. PLO No. 6476 withdrew 334 acres of National Forest System lands in the Rogue River-Siskiyou National Forest from location and entry under the United States mining laws to protect the Wheeler Creek Research Natural Area (RNA).

DATES: This PLO takes effect on October 5, 2023.

FOR FURTHER INFORMATION CONTACT: Luke Poff, Realty Specialist, Bureau of Land Management Oregon/Washington State Office, P.O. Box 2965, Portland, OR 97208, (503) 808–6249, or by email at *lpoff@blm.gov*. The United States Forest Service, Rogue River-Siskiyou National Forest Supervisor's Office can be reached at 3040 Biddle Road, Medford, Oregon 97504, (541) 618–2200. Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The purpose of the withdrawal extended by this PLO is to maintain the protection of the Wheeler Creek RNA. PLO No. 6476 (48 FR 45395 (1983)), as extended by PLO No. 7572 (68 FR 42127 (2003)), incorporated herein by reference, withdrew 334 acres of National Forest System lands from location and entry under the United States mining laws to protect the Wheeler Creek RNA in Curry County, Oregon, from any adverse impacts of such activities. The withdrawal extension is necessary to continue that protection.

Order

By virtue of the authority vested in the Secretary of the Interior by section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), it is ordered as follows:

1. PLO No. 6476, as extended by PLO No. 7572 for an additional 20-year period, which withdrew 334 acres of National Forest System lands from location and entry under the United States mining laws to protect the Wheeler Creek Research Natural Area in support of Forest Service programs, is hereby extended, subject to valid existing rights, for an additional 20-year period.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

(Authority: 43 U.S.C. 1714(f))

Robert T. Anderson,

Solicitor.

[FR Doc. 2023–21475 Filed 9–28–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CO_FRN_MO#4500174052]

Notice of Public Meeting of the Rocky Mountain Resource Advisory Council, Colorado

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) Rocky Mountain Resource Advisory Council (RAC) is announcing its 2023 fall meeting.

DATES: The Rocky Mountain RAC will meet in-person on November 9, 2023, from 9 a.m. to 11:45 a.m. Mountain Time (MT). A virtual participation option will be available and the meeting is open to the public.

ADDRESSES: The meeting will be held at the BLM's Royal Gorge Field Office, 3028 East Main Street, Cañon City, CO 81212. A virtual option will be offered

through the Zoom platform. Registration and participation will be available on the RAC's web page 30 days in advance of the meeting at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/colorado/rocky-mountain-rac.*

FOR FURTHER INFORMATION CONTACT: Levi Spellman, Public Affairs Specialist; BLM Rocky Mountain District Office, 3028 E. Main St., Canon City, CO, 81212; telephone: (719) 269–8553; email: *lspellman@blm.gov*. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting the BLM. 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 15-member Rocky Mountain RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues in the Rocky Mountain District of Colorado, including the Royal Gorge Field Office, San Luis Valley Field Office, and Browns Canyon National Monument. Agenda topics include the selection of a RAC chairperson and a vote on a proposal to increase recreation fees for sites managed by the Royal Gorge Field Office.

A public comment period is scheduled for 11:05 a.m. MT. Depending on the number of persons wishing to speak and the time available, the amount of time for oral comments may be limited. Written comments for the RAC may be sent electronically in advance of the scheduled meeting to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Please include ''RAC Comment'' in your submission. All comments received will be provided to the RAC. 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 in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven (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.

Before including your address, phone number, email address, or other personal identifying information in your comment, please be aware that your entire comment—including your personally identifying information—may be made publicly available at any time. While individuals may request their personally identifying information to be withheld from public view, we cannot guarantee that we will be able to do so.

Detailed minutes for the RAC meetings will be maintained in the Rocky Mountain District Office and will be available for public inspection and reproduction during regular business hours within 90 days following the meeting. Previous minutes and agendas are also available on the RAC's web page listed in the **ADDRESSES** section of this notice.

Authority: 43 CFR 1784.4–2.

Douglas J. Vilsack,

BLM Colorado State Director.

[FR Doc. 2023–21437 Filed 9–28–23; 8:45 am]

BILLING CODE 4311–16–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036673; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Kansas State University, Manhattan, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Kansas State University has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Platte County, MO.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after October 30, 2023.

ADDRESSES: Megan Williamson, Department of Sociology, Anthropology, and Social Work, Kansas State University, 204 Waters Hall, 1603 Old Claflin Place, Manhattan, KS 66506–4003, telephone (785) 532–6005, email *mwillia1@ksu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Kansas State University. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by Kansas State University.

Description.

Human remains representing, at minimum, six individuals were removed from the Cochran Mound, 23PL86, in Platte County, KS. The Cochran Mound is a burial mound on private land. It occupies a portion of the highest point of the left (east) bluff of the Missouri River, just upstream from the confluence of Brush Creek with the river. The mound measures 102 feet long (north-south) by 86 feet wide (east-west), and it contains a stone vault measuring 8.75 feet square. Excavation of the Cochran Mound was conducted in June of 1971 by staff and students of the Kansas Archaeological Field School, under the direction of Dr. Patricia J. O'Brien of Kansas State University. Excavation showed that it had been severely looted by an unknown person or persons at an unknown time in the past. Collections were processed and cataloged by field school students and then removed to the archeology laboratory at Kansas State University for analysis, reporting, and curation. They have remained in the university's possession since that time. The human remains are commingled and are highly fragmented. Some of the bones were burnt, suggesting that cremation had occurred. As some of the artifacts also show heat fractures, they may have been with the bodies at the time of cremation. The human remains belong to four adults, one juvenile, and one infant. One of the adults is female and another adult was at least 45 years of age or older at the time of death. The 17 associated funerary objects are one projectile point, four biface fragments, one retouched flake, five bullets (historic), one hematite stone, one shell bead, one lot consisting of gastropod shells, two charcoal samples, and one lot consisting of stone debitage (approximately 38 pieces).

Human remains representing, at minimum, six individuals were removed from the Cogan Mounds, 23PL125, in Platte County, MO. The Cogan Mounds are comprised of two burial mounds on private land. Mound 1 measures about five meters in diameter and was made of various sized limestone slabs mixed with dirt. It contained the remains of a disturbed limestone vault measuring 1.78 meters long on the north side and 2.20 meters on the west side (the east and south sides were sufficiently damaged as to preclude measurement). No entrance was found. The presence of Euromerican debris indicated prior

disturbance. Mound 2 was about 35 meters to the southeast of Mound 1. It contained an irregular rectangular limestone vault measuring 2.77 meters long on the north side, 2.83 meters long on the west side, and 3.11 meters long on the east side. The 0.88-meter-wide entrance was on the south side, 0.84 meter from the west wall and 0.82 meter from the east wall. The vault was intact, but the presence of Euromerican debris indicated it had been looted at an unknown time in the past. Excavation of the Cogan Mounds was conducted in June and July of 1973 by staff and students from the Kansas Archaeological Field School, under the direction of Dr. Patricia J. O'Brien from Kansas State University. Collections were processed and cataloged by field school students and then removed to the archeology laboratory at Kansas State University for analysis, reporting, and curation. They have remained in the university's possession since that time. Fragmentary human remains belonging to one female adult, two adults of indeterminate sex, one child and one six-month-old infant were removed from Mound 1. Some of the bones are burnt, suggesting that cremation had occurred. Fragmentary human remains belonging to an adult of indeterminate sex were removed from Mound 2. Several pieces of bone show green copper staining. Of the 39 associated funerary objects, 23 are historic. The 39 associated funerary objects are eight metal nail fragments, one iron stake, one metal bridle ring, one bullet casing, two glass buttons, one ceramic fragment, nine glass and crockery fragments, one hematite stone, one projectile point, one lot consisting of stone debitage (approximately 83 pieces), one stone core, one fossil, one animal bone fragment, two gastropod shells, one ceramic sherd, three seeds, two charcoal samples, and two rocks.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical and historical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, Kansas State University has determined that:

- The human remains described in this notice represent the physical remains of 12 individuals of Native American ancestry.
- The 56 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; and The Osage Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after October 30, 2023. If competing requests for repatriation are received, Kansas State University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. Kansas State University is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: September 25, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–21388 Filed 9–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–D–COS–POL–36533; PPWODIREP0; PPMPSAS1Y.000000; PX.XDIRE0039]

Notice of the November 14, 15, and 16, 2023, Meeting of the Advisory Committee on Reconciliation in Place Names

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the National Park Service (NPS) is hereby giving notice that the Advisory Committee on Reconciliation in Place Names (Committee) will meet as noted below.

DATES: The Committee will meet on Tuesday November 14, 2023, from 9:00 a.m. until 4:00 p.m. (HAWAIIAN), Wednesday November 15, 2023, from 9:00 a.m. until 5:00 p.m. (HAWAIIAN), and Thursday November 16, 2023, from 9:00 a.m. until 5:00 p.m. (HAWAIIAN). Individuals that wish to participate must contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than Tuesday November 7, 2023, to receive instructions for accessing the meeting.

ADDRESSES: The Committee will meet at the Campus Center Ballroom, University of Hawaii at Manoa, Honolulu, HI, 96822. Electronic submissions of materials or requests are to be sent to *reconciliation_committee@nps.gov.* The meeting will also be accessible virtually via webinar and audio conference technology.

FOR FURTHER INFORMATION CONTACT: For information concerning attending the Committee meeting in-person or virtually, submitting written comments to the Committee, or requesting to address the Committee, contact Andrea DeKoter, Committee Manager for the Advisory Committee on Reconciliation in Place Names, Office of Policy, National Park Service, at *reconciliation_committee@nps.gov* or by telephone at (202) 354–2220.

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 Committee has been established by authority of the Secretary of the Interior (Secretary) under 54 U.S.C. 100906 and is regulated by the Federal Advisory Committee Act.

Purpose of the Meeting: The Committee will present its work identifying Federal land unit and geographic feature names that may be considered derogatory, and its recommendations for determining a process to engage Tribes, State and local governments, affected Federal agencies, and members of the public in identifying additional derogatory terms and Federal land unit and geographic feature names. The final agenda and briefing materials will be posted to the Committee's website prior to the meeting at *https://www.nps.gov/orgs/1892/advisory-committee-on-reconciliation-in-place-names.htm.*

The meeting is open to the public. Interested persons may choose to make oral comments at the meeting during the designated time for this purpose. Depending on the number of people wishing to comment and the time available, the amount of time for oral comments may be limited. Interested parties should contact the Committee Manager (see **FOR FURTHER INFORMATION CONTACT**) for advance placement on the public speaker list for this meeting. Members of the public may also choose to submit written comments by emailing them to *reconciliation_committee@nps.gov.* Due to time constraints during the meeting, the Committee is not able to read written public comments submitted into the record. All comments will be made part of the public record and will be electronically distributed to all Committee members. Detailed minutes of the meeting will be available for public inspection within 90 days of the meeting.

Meeting Accessibility: 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 in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven (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.

Public Disclosure of Comments: 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.

Authority: 5 U.S.C. Ch.10.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2023–21555 Filed 9–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036676; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Nevada, Las Vegas, Las Vegas, NV

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Nevada, Las Vegas has completed an inventory of human remains and associated funerary objects and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any Indian Tribe. The human remains and associated funerary objects were removed from Clark County, NV.

DATES: Disposition of the human remains and associated funerary objects in this notice may occur on or after October 30, 2023.

ADDRESSES: Dr. Daniel Benyshek, University of Nevada, Las Vegas, 4505 S Maryland Parkway, Las Vegas, NV 89154, telephone (702) 895–2070, email *Daniel.Benyshek@unlv.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of Nevada, Las Vegas. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the University of Nevada, Las Vegas.

Description

Human remains representing, at minimum, 24 individuals were removed from Clark County, Nevada (Accession #s *A240 (Berger Site), AHUR 1 (Goodsprings Site), AHUR 2 (New St. Joseph Site), AHUR 5 (Miracle Mile Trailer Park), AHUR 29 (Unknown Site), AHUR 35 (Steve Perkins Site), AHUR 36 (Burial Hill Site), AHUR 59 (Burial Hill Site), AHUR 60 (Burial Hill Site), AHUR 61 (Burial Hill Site), AHUR 66 (Burial Hill Site), AHUR 67 (Burial Hill Site), AHUR 68 (Burial Hill Site), AHUR 122 (Burial Hill Site), AHUR 125(Burial Hill Site), AHUR 126 (Steve Perkins Site), AHUR 135X (Pueblo Point Site), AHUR 530 (Burial Hill Site), AHUR 1275 (Overton Site), AHUR 1279 (Steve Perkins Site), FHUR 13 (Tule Springs Site), FHUR 56 (Unknown Site)*). The 32 associated funerary objects include faunal bones, cloth, a button, seeds, a gray ware jar, beads, a pendant, a woven mat, worked bones, stone flakes, burnt bones, shell disc beads, charcoal, a burned corn cob, gravel, a stone tool, pottery sherds, textile pieces, ceramic pieces, bone beads, wood sticks, vegetable fibers (matting), rope, and lithic flakes.

Aboriginal Land

The human remains and associated funerary objects in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: a final judgment of the Indian Claims Commission.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the University of Nevada, Las Vegas has determined that:

- The human remains described in this notice represent the physical remains of 24 individuals of Native American ancestry.
- The 32 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any Indian Tribe.
- The human remains and associated funerary objects described in this notice were removed from the aboriginal land of the Colorado River Indian Tribes of

the Colorado River Indian Reservation, Arizona and California; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort Mojave Indian Tribe of Arizona, California & Nevada; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; and the Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes).

Requests for Disposition

Written requests for disposition of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary objects described in this notice to a requestor may occur on or after October 30, 2023. If competing requests for disposition are received, the University of Nevada, Las Vegas must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary objects are considered a single request and not competing requests. The University of Nevada, Las Vegas is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and 10.11.

Dated: September 25, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–21391 Filed 9–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036674; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion Amendment: Kansas State University, Manhattan, KS

AGENCY: National Park Service, Interior.

ACTION: Notice; amendment.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Kansas State University has amended a Notice of Inventory Completion published in the **Federal Register** on September 11, 2006. This notice amends the minimum number of individuals.

DATES: Disposition of the human remains in this notice may occur on or after October 30, 2023.

ADDRESSES: Megan Williamson, Department of Sociology, Anthropology, and Social Work, Kansas State University, 204 Waters Hall, 1603 Old Claflin Place, Manhattan, KS 66506–4003, telephone (785) 532–6005, email *mwillia1@ksu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Kansas State University. The National Park Service is not responsible for the determinations in this notice. Additional information on the amendments and determinations in this notice, including the results of consultation, can be found in the inventory or related records held by Kansas State University.

Amendment

This notice amends the determinations published in a Notice of Inventory Completion in the **Federal Register** (71 FR 53467–53468, September 11, 2006) by increasing the minimum number of individuals (MNI) listed in the previous notice from four to six. Disposition of the items in the original Notice of Inventory Completion has not occurred.

From site 14MP463, in McPherson County, KS, four individuals were removed (previously identified as two). No associated funerary objects are present.

Determinations (as Amended)

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, Kansas State University has determined that:

- The human remains represent the physical remains of six individuals of Native American ancestry.
- No relationship of shared group identity can be reasonably traced between the human remains and associated funerary objects and any Indian Tribe.
- The human remains and associated funerary objects were removed from the aboriginal land of the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma.

Requests for Disposition

Written requests for disposition of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains in this notice to a requestor may occur on or after October 30, 2023. If competing requests for disposition are received, Kansas State University must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. Kansas State University is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.11, and 10.13.

Dated: September 25, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–21389 Filed 9–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036672; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Arizona State University, School of Human Evolution and Social Change, Tempe, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Arizona State University, Center for Archaeology and Society Repository (acting in place of the Arizona State University, School of Human Evolution and Social Change) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Maricopa County, AZ.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after October 30, 2023.

ADDRESSES: Allisen Dahlstedt, Arizona State University, School of Human Evolution and Social Change, P.O. Box 872402, Tempe, AZ 85287–2402, email *Allisen.Dahlstedt@asu.edu* and Christopher Caseldine, Arizona State University, School of Human Evolution and Social Change, P.O. Box 872402, Tempe, AZ 85287–2402, telephone (480) 965–6957, email *Christopher.Caseldine@asu.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Arizona State University, Center for Archaeology and Society Repository. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Arizona State University, Center for Archaeology and Society Repository.

Description

Human remains representing, at minimum, three individuals were removed from Maricopa County, AZ. These disinterments occurred during three separate projects over the course of nine years.

In 1959, the human remains of one individual were removed from the western portion of Las Colinas—then designated The Spear Site—by an undergraduate student in the Department of Sociology and Anthropology at Arizona State University (ASU). No details about the project or its curation at ASU are available. The individual is an adult of indeterminate sex. The six associated funerary objects are: one lot consisting of loose soil with charcoal, one lot consisting of stone materials, one obsidian chip with a shaped edge, one ceramic sherd, one lot consisting of shell fragments, and one lot consisting of faunal skeletal fragments.

On April 29, 1961, ASU Department of Anthropology faculty Dr. Donald Morris was contacted to recover a burial that had been disturbed by a contractor doing construction-related excavation for a caisson within the Las Colinas site. The human remains of one individual and several cultural objects within this mortuary feature were removed and brought to ASU. The individual is an adult, likely male. The 23 associated funerary objects are: one chert biface, one incised bone object interpreted by Morris to be parts of a wand, one three-quarter grooved axe, one lot consisting of faunal bone, four lots consisting of charred fiber/textile material, two lots consisting of charred wood, one lot consisting of shell fragments, one lot consisting of chipped stones, one reconstructed ceramic bowl, one partially intact ceramic jar, one partially reconstructable bowl, and eight lots consisting of mixed ceramic sherds.

In 1967, the human remains of one individual were removed by an unknown person. Based on bag labels, the disinterment likely took place on March 9, 1967, as part of a salvage project for Arizona Public Service (APS) at Las Colinas (no other field documentation records have been located). The individual is an adult of indeterminate sex. The three associated funerary objects are one lot consisting of unworked shell fragments, one lot consisting of mixed ceramic sherds, and one lot consisting of lithic debitage.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological, archeological, folkloric, geographical, kinship, linguistic, oral traditional, and other relevant information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the Arizona State University, Center for Archaeology and Society Repository has determined that:

- The human remains described in this notice represent the partial physical remains of three individuals of Native American ancestry.
- The 32 associated funerary objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Ak-Chin Indian Community; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Officials identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after October 30, 2023. If competing requests for repatriation are received, the Arizona State University, Center for Archaeology and Society Repository must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Arizona State University, Center for Archaeology and Society Repository is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: September 25, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–21385 Filed 9–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036671; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Sequoia and Kings Canyon National Parks, Three Rivers, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, National Park Service, Sequoia and Kings Canyon National Parks (SEKI) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Tulare County, CA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after October 30, 2023.

ADDRESSES: Clayton Jordan, Superintendent, Sequoia and Kings Canyon National Parks, 47050 Generals Highway, Three Rivers, CA 93271, telephone (559) 565–3101, email *clayton_jordan@nps.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Superintendent, SEKI. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by SEKI.

Description

Human remains representing, at minimum, four individuals were removed from Tulare County, CA, in 1960 through archeological excavations undertaken at the Hospital Rock site by Jay von Werlholf from the College of the Sequoias. All materials collected from the site were held at the College of the Sequoias until 1961 when the human remains were transferred to the University of California, Berkeley and all other materials were returned to Sequoia National Park. The human remains held at the University of California, Berkeley, and their associated funerary objects held by the NPS, were repatriated in 1991. Additional human remains were discovered in the Berkeley collections and repatriated by SEKI in 2005. In 2022, human remains were identified in faunal materials from the Hospital Rock site. A review of the archeological and curatorial records also identified associated funerary objects. The 715 associated funerary objects are 180 pottery sherds, one baked clay fragment, one clay knob, 104 bone and shell beads, 50 awls, three bone needles, one decorated bone tube, 33 shell fragments, seven shell pendants, three pieces of worked antler and animal bone, one bone paddle, 10 animal bone fragments, two animal teeth, four fragments of wattle and daub, 45 steatite beads, five steatite pendant fragments, 41 steatite sherds, one arrow shaft straightener, three round stones, four rubbing stones, four stone paddles, 10 manos, 105 projectile points, three projectile point blanks, seven lithic cores, 25 stone knives, 35 scrapers, one obsidian drill, five pieces of worked stone, one blue glass bead, five yellow ochre fragments, and 15 red ochre fragments.

Cultural affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, historical information, oral tradition, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, SEKI has determined that:

- The human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- The 715 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Big Sandy Rancheria of Western Mono Indians of California; Cold Springs Rancheria of Mono Indians of California; Northfork Rancheria of Mono Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria; Tule River Indian Tribe of the Tule River Reservation, California; and the Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after October 30, 2023. If competing requests for repatriation are received, SEKI must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. SEKI is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, § 10.10, and § 10.14.

Dated: September 25, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–21384 Filed 9–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

NPS–WASO–NAGPRA–NPS0036677; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: California State University, Chico, Chico, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California State University, Chico (CSU Chico) has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The associated funerary objects were removed from Chico, CA.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after October 30, 2023.

ADDRESSES: Dawn Rewolinski, California State University, Chico, 400 W 1st Street, Chico, CA 95929, telephone (530) 898–3090, email *drewolinski@csuchico.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of CSU Chico. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by CSU Chico.

Description

Between 1963 and 1984, CSU Chico conducted excavations at the Finch Site (CA–BUT–12). In addition, Joseph Chartkoff (then of UCLA) led an excavation at the site in the summer of 1967. Subsequently, Michigan State University obtained items from the site that had been excavated by Chartkoff. In the summer of 2023, Michigan State University transferred these items to CSU Chico, to be repatriated with the ancestors and associated funerary objects from the Finch Site (CA–BUT–12) listed by CSU Chico in a Notice of Inventory Completion published in the **Federal Register** on June 29, 2023. The 56 associated funerary objects are one lot consisting of soil, three modified faunal elements, one organic item, two lots consisting of unmodified shells, eight lots consisting of modified stones, four lots consisting of stone debitage, and 37 projectile points.

Cultural Affiliation

The associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological, archeological, oral traditional, and expert opinion obtained through tribal consultation.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, CSU Chico has determined that:

- The 56 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Mechoopda Indian Tribe of Chico Rancheria, California.

Requests for Repatriation

Written requests for repatriation of the associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the associated funerary objects in this notice to a requestor may occur on or after October 30, 2023. If competing requests for repatriation are received, CSU Chico must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. CSU Chico is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: September 25, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–21392 Filed 9–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036678; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: California State University, Chico, Chico, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California State University, Chico (CSU Chico) intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural items were removed from Butte, Glenn, and Tehama Counties, CA.

DATES: Repatriation of the cultural items in this notice may occur on or after October 30, 2023.

ADDRESSES: Dawn Rewolinski, California State University, Chico, 400 W 1st Street, Chico, CA 95929, telephone (530) 898–3090, email *drewolinski@csuchico.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of California State University, Chico. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records held by California State University, Chico.

Description

Accession 385

Seven cultural items were removed from the Big Chico Creek Ecological Reserve (BCCER) in Butte County, CA. BCCER is owned by CSU Chico.

Between 2001 and 2010, Drs. Frank Bayham and Antoinette Martinez of the CSU, Chico Anthropology Department led classes at several archeological sites at BCCER. In 2005, Dr. Martinez conducted test excavations with a class at BCCER–02, as part of a cooperative agreement with the Mechoopda Indian Tribe of Chico Rancheria, California. The seven objects of cultural patrimony are seven oversized stone tools.

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological, archeological, historical, and expert opinion obtained through Tribal consultation.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, California State University, Chico has determined that:

- The seven cultural items described above have ongoing historical, traditional, or cultural importance central, to the Native American group or culture itself, rather than property owned by an individual.
- There is a relationship of shared group identity that can be reasonably traced between the cultural items and the Berry Creek Rancheria of Maidu Indians of California; Enterprise Rancheria of Maidu Indians of California; Mechoopda Indian Tribe of Chico Rancheria, California; Mooretown Rancheria of Maidu Indians of California; and the Paskenta Band of Nomlaki Indians of California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after October 30, 2023. If competing requests for repatriation are received, California State University, Chico must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. California State University, Chico is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: September 25, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–21393 Filed 9–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036675; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of California, Riverside, Riverside, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, Riverside has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The associated funerary objects were removed from Riverside, CA.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after October 30, 2023.

ADDRESSES: Megan Murphy, University of California, Riverside, 900 University Avenue, Riverside, CA 92517–5900, telephone (951) 827–6349, email *megan.murphy@ucr.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Riverside. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the University of California, Riverside.

Description

In 1987, human remains representing, at minimum, one individual were removed from site CA–RIV–333 in Riverside, Riverside County, CA, by the University of California, Riverside. Based on the archeological evidence, site CA–RIV–333 was occupied during the Late Prehistoric period (A.D. 1500–1770). The remains of this individual were listed in a Notice of Inventory Completion published in the **Federal Register** on April 25, 2003 (68 FR 20407–20408). In 2023, representatives of the Pechanga Band of Indians identified funerary objects associated with the human remains. The 12 associated funerary objects are one lot consisting of animal bones, one lot consisting of ceramics, one lot consisting of clay, one lot consisting of lithic materials, one lot consisting of metal, one lot consisting of rubber, one lot consisting of modified shells, one lot consisting of animal bones, one lot consisting of mineralogical objects, one lot consisting of unmodified shells, one lot consisting of organic material, and one lot consisting of fire-altered rocks.

Cultural Affiliation

The associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological, archeological, geographical, historical, oral traditional, and expert tribal opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the University of California, Riverside has determined that:

- The 12 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the associated funerary objects described in this notice and the Pechanga Band of Indians (*Previously*

listed as Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California).

Requests for Repatriation

Written requests for repatriation of the associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the associated funerary objects in this notice to a requestor may occur on or after October 30, 2023. If competing requests for repatriation are received, the University of California, Riverside must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the associated funerary objects are considered a single request and not competing requests. The University of California, Riverside is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: September 25, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–21390 Filed 9–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2023–0047]

Notice of Availability of a Final Environmental Impact Statement for the Proposed Coastal Virginia Offshore Wind Commercial Project, Offshore Virginia

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability; final environmental impact statement.

SUMMARY: BOEM announces the availability of the final environmental impact statement (FEIS) for the construction and operations plan (COP) submitted by Virginia Electric and Power Company (dba Dominion Energy) for the proposed Coastal Virginia Offshore Wind Commercial Project (Project), offshore Virginia Beach, Virginia. The FEIS analyzes the potential environmental impacts of the Project as described in the COP (the proposed action) and the alternatives to the proposed action, including the no action alternative. The FEIS will inform BOEM's decision whether to approve, approve with modifications, or disapprove the COP.

ADDRESSES: The FEIS and detailed information about the Project, including the COP, can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/CVOW-C.*

FOR FURTHER INFORMATION CONTACT: Jessica Stromberg, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1730 or *jessica.stromberg@boem.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Action: Dominion Energy seeks approval to construct, operate, and maintain the Project: a wind energy facility and the associated export cables on the Outer Continental Shelf (OCS) offshore Virginia. The Project would be developed within the range of design parameters outlined in the COP, subject to applicable mitigation measures.

The Project as proposed in the COP would include up to 202 wind turbine generators (WTGs); up to three offshore, high voltage, alternating current substations; inter-array cables linking the individual turbines to the offshore substations; substation interconnector cables linking the substations to each other; offshore export cables; an onshore export cable system; an onshore switching station north of Harpers Road (Harpers Switching Station) or north of Princess Anne Road (Chicory Switching Station) in Virginia Beach, Virginia; and an overhead power line connection to the existing electrical grid at the Fentress Substation in Chesapeake, Virginia.

The WTGs, offshore substations, inter-array cables, and substation interconnector cables would be located on the OCS approximately 24 nautical miles (27 statute miles) east of Virginia Beach, Virginia, within the area defined by Renewable Energy Lease OCS–A–0483. The offshore export cables would be buried below the seabed surface in the OCS and Commonwealth of Virginia-owned submerged lands. The onshore export cables, substations, and grid connections would be located in Princess Anne County, Virginia.

Alternatives: BOEM considered a reasonable range of alternatives when preparing the draft environmental impact statement (DEIS) and carried forward the no action alternative and four action alternatives for further analysis in the DEIS and FEIS. Action alternatives A, B, C, and D (includes on-shore sub-alternatives D1 and D2) are analyzed in the FEIS. Three alternatives and four on-shore sub-alternatives were eliminated from detailed analysis because they did not meet the purpose and need for the proposed action or did not meet the screening criteria, which are presented in appendix C of the FEIS. The screening criteria included consistency with law and regulations, technical and economic feasibility, environmental impact, and geographic considerations.

Availability of the FEIS: The FEIS, COP, and associated information are available on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/CVOW-C.*

BOEM has distributed digital copies of the FEIS to all parties listed in appendix K of the FEIS. If you would like a digital copy of the FEIS on a flash drive or a paper copy, BOEM will provide one upon request, as long as copies are available. You may request a flash drive or paper copy of the FEIS by contacting Lisa Landers at (703) 787–1520 or *lisa.landers@boem.gov.*

Cooperating Agencies: The following seven Federal agencies participated as cooperating agencies in the preparation of the FEIS: Bureau of Safety and Environmental Enforcement; U.S. Environmental Protection Agency; National Marine Fisheries Service; National Park Service; U.S. Army Corps of Engineers; U.S. Coast Guard; and U.S. Fish and Wildlife Service.

Participating Agencies: The following four agencies participated in the preparation of the FEIS as participating agencies: Department of Defense; Department of the Navy; the Advisory Council on Historic Preservation; and the Virginia Department of Environmental Protection.

Authority: 42 U.S.C. 4231 *et seq.* (NEPA, as amended) and 40 CFR 1506.6.

Karen Baker,

Chief, Office of Renewable Energy Programs, Bureau of Ocean Energy Management.

[FR Doc. 2023–21337 Filed 9–28–23; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1270]

Bulk Manufacturer of Controlled Substances Application: Eli-Elsohly Laboratories

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Eli-Elsohly Laboratories has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 28, 2023. Such persons may also file a written request for a hearing on the application on or before November 28, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on August 24, 2023, Eli-Elsohly Laboratories, 5 Industrial Park Drive, Oxford, Mississippi 38655–5343, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Amphetamine	1100	II
Methamphetamine	1105	II
Cocaine	9041	II
Ecgonine	9180	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Dihydromorphine	9145	II
Thebaine	9333	II

The company plans to manufacture the listed controlled substances for product development and reference standards. In reference to drug codes 7360 (Marihuana) and 7370 (Tetrahydrocannabinols), the company plans to isolate these controlled substances from procured 7350 (Marihuana Extract). In reference to drug code 7360, no cultivation activities are authorized for this registration. In reference to drug code 9333 (Thebaine), the company plans to manufacture a Thebaine derivative. No other activities for these drug codes are authorized for this registration.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2023–21400 Filed 9–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1269]

Importer of Controlled Substances Application: Maridose LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Maridose LLC. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before October 30, 2023. Such persons may also file a written request for a hearing on the application on or before October 30, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on September 12, 2023, Maridose LLC, 23378 Barlake Drive, Boca Raton, Florida 33433, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis. In reference to drug codes 7360 (Marihuana) and 7370 (Tetrahydrocannabinols) the company plans to import a synthetic cannabidiol and a synthetic tetrahydrocannabinol. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2023–21399 Filed 9–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1276]

Importer of Controlled Substances Application: Curia Wisconsin, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Curia Wisconsin, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before October 30, 2023. Such persons may also file a written request for a hearing on the application on or before October 30, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on August 3, 2023, Curia Wisconsin, Inc., 870 Badger Circle, Grafton, Wisconsin 53024–9436, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Marihuana Extract	7350	I
Marihuana	7360	I
Dimethyltryptamine	7435	I

The company plans to import Dimethyltryptamine and a derivative of Gamma Hydroxybutyric Acid to support post procurement reprocessing. The cannabidiol from Marihuana and Marihuana Extract is intended for analytical purposes with Tetramethylpyrazine (TMP). No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2023–21403 Filed 9–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1261]

Importer of Controlled Substances Application: VHG Labs dba LGC Standards

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: VHG Labs dba LGC Standards has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before October 30, 2023. Such persons may also file a written request for a hearing on the application on or before October 30, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on August 16, 2023, VHG Labs dba LGC Standards, 3 Perimeter Road, Manchester, New Hampshire 03103–3341, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Para-Methoxymethamphetamine (PMMA), 1-(4- methoxyphenyl)-N-methylpropan-2-amine	1245	I
Aminorex	1585	I
Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6Hthieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine	2780	I
Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4Hbenzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine)	2785	I
Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4Hbenzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2786	I
Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2788	I
Diclazepam (7-chloro-5-(2-chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2H-benzo[e][1,4]diazepin-2-one	2789	I
Piritramide	9642	I
Lisdexamfetamine	1205	II
Oliceridine (N-[(3-methoxythiophen-2yl)methyl] ({2-[9r)-9-(pyridin-2-yl)-6-oxaspiro[4.5] decan-9-yl] ethyl {time})amine fumarate).	9245	II
Levo-alphacetylmethadol	9648	II
Remifentanil	9739	II
Tapentadol	9780	II

The company plans to import the listed controlled substances for distribution for analytical testing purposes. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2023–21398 Filed 9–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1272]

Bulk Manufacturer of Controlled Substances Application: Restek Corporation

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Restek Corporation has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 28, 2023. Such persons may also file a written request for a hearing on the application on or before November 28, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on June 21, 2023, Restek Corporation, 110 Benner Circle, Bellefonte, Pennsylvania 16823–8433, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH–200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP–47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
3,4-Methylenedioxyamphetamine	7400	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
Bufotenine	7433	I
Psilocybin	7437	I
Psilocyn	7438	I
Cyprenorphine	9054	I
Dihydromorphine	9145	I
Heroin	9200	I
Normorphine	9313	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I

The company plans to bulk manufacture the listed controlled substances for DEA exempted certified reference materials. In-house synthesis gives access to compounds that are difficult to source. No other activities for these drug codes are authorized for this registration.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2023–21401 Filed 9–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1277]

Importer of Controlled Substances Application: Restek Corporation

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Restek Corporation has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before October 30, 2023. Such persons may also file a written request for a hearing on the application on or before October 30, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on August 24, 2023, Restek Corporation, 110 Benner Circle, Bellefonte, Pennsylvania 16823–8433, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Amineptine	1219	I
Mesocarb	1227	I
3-Fluoro-N-methylcathinone (3–FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4–FMC)	1238	I
Para-Methoxymethamphetamine (PMMA), 1-(4–1245 I N methoxyphenyl)-N-methylpropan-2-amine	1245	I
Pentedrone (a-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone	1248	I
4-Methyl-N-ethylcathinone (4–MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
Methiopropamine (N-methyl-1-(thiophen-2-yl)propan-2- 1478 I N amine)	1478	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
4,4′-Dimethylaminorex	1595	I
Methylphenidate	1724	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
JWH–250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR–18 (Also known as RCS–8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB–FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Fluoro-UR–144 and XLR11 [1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	7011	I
AB–FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
FUB–144 (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)	7014	I
JWH–019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
MDMB–FUBINACA (Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
FUB–AMB, MMB- FUBINACA, AMB–FUBINACA (2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate).	7021	I
AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ–2201 ([1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone)	7024	I
5F–AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluropentyl)-1H-indazole-3-carboximide)	7025	I
AB–CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7031	I
MAB–CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F–AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F–ADB, 5F–MDMB–PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
5F–EDMB–PINACA (ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7036	I
5F–MDMB–PICA (methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate)	7041	I

Controlled substance	Drug code	Schedule
MDMB–CHMICA, MMB–CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate).	7042	I
4F–MDMB–BINACA (4F–MDMB–BUTINACA or methyl 2- (1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate) 7043 I N.	7043	I
MMB–CHMICA, AMB–CHMICA (methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate)	7044	I
FUB–AKB48, FUB–APINACA, AKB48 N-(4–FLUOROBENZYL) (N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboximide).	7047	I
APINACA and AKB48 (N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide)	7048	I
5F–APINACA, 5F–AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH–081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
5F–CUMYL–PINACA, 5GT–25 (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide)	7083	I
5F–CUMYL–P7AICA (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide)	7085	I
4–CN–CUML–BUTINACA, 4-cyano-CUMYL–BUTINACA, 4–CN–CUMYL BINACA, CUMYL–4CN–BINACA, SGT–78 (1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide).	7089	I
SR–19 (Also known as RCS–4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole)	7104	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH–122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR–144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH–073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH–200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH–203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
NM2201, CBL2201 (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate	7221	I
PB–22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F–PB–22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
4-methyl-alpha-ethylaminopentiophenone (4–MEAP) 7245 I N 4–MEAP	7245	I
N-ethylhexedrone 7246 I N	7246	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
2-(ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one (methoxetamine)	7286	I
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP–47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2C–T–7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine	7348	I
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Parahexyl	7374	I
Mescaline	7381	I
2C–T–2 (2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH–398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
Peyote	7415	I
5-Methoxy-N–N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
4-chloro-alpha-pyrrolidinovalerophenone (4-chloro-a-PVP)	7443	I
4′-methyl-alpha-pyrrolidinohexiophenone (MPHP)	7446	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Ethyl-3-piperidyl benzilate	7482	I
N-Methyl-3-piperidyl benzilate	7484	I
N-Benzylpiperazine	7493	I
4-MePPP (4-Methyl-alphapyrrolidinopropiophenone)	7498	I
2C–D (2-(2,5-Dimethoxy-4-methylphenyl) ethanamine)	7508	I
2C–E (2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine)	7509	I

Controlled substance	Drug code	Schedule
2C–H 2-(2,5-Dimethoxyphenyl) ethanamine)	7517	I
2C–I 2-(4-iodo-2,5-dimethoxyphenyl) ethanamine)	7518	I
2C–C 2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine)	7519	I
2C–N (2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine)	7521	I
2C–P (2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine)	7524	I
2C–T–4 (2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
25B–NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7536	I
25C–NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7537	I
25I–NBOMe (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
N-Ethypentylone, ephylone (1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	7543	I
alpha-pyrrolidinohexanophenone (a-PHP)	7544	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
alpha-pyrrolidinobutiophenone (α-PBP)	7546	I
Ethylone	7547	I
alpha-pyrrolidinoheptaphenone (PV8)	7548	I
AM–694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Cyprenorphine	9054	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I
Codeine methylbromide	9070	I
Brorphine (1-(1-(1-(4-bromophenyl)ethyl)piperidin-4–4l)1,3-dihydro-2H-benzo[d]imidazol-2-one)	9098	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Heroin	9200	I
Hydromorphinol	9301	I
Methyldesorphine	9302	I
Methyldihydromorphine	9304	I
Morphine methylbromide	9305	I
Morphine methylsulfonate	9306	I
Morphine-N-oxide	9307	I
Myrophine	9308	I
Nicocodeine	9309	I
Nicomorphine	9312	I
Normorphine	9313	I
Pholcodine	9314	I
Thebacon	9315	I
Acetorphine	9319	I
Drotebanol	9335	I
U–47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
AH–7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
MT–45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine))	9560	I
Acetylmethadol	9601	I
Allylprodine	9602	I
Alphacetylmethadol except levo-alphacetylmethadol	9603	I
Alphameprodine	9604	I
Alphamethadol	9605	I
Benzethidine	9606	I
Betacetylmethadol	9607	I
Betameprodine	9608	I
Betamethadol	9609	I
Betaprodine	9611	I
Clonitazene	9612	I
Dextromoramide	9613	I
Isotonotazene (N,N-diethyl-2-(2-(4 isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine)	9614	I
Diampromide	9615	I
Diethylthiambutene	9616	I
Dimenoxadol	9617	I
Dimepheptanol	9618	I
Dimethylthiambutene	9619	I
Dioxaphetyl butyrate	9621	I
Dipipanone	9622	I
Ethylmethylthiambutene	9623	I
Etonitazene	9624	I
Etoxeridine	9625	I
Furethidine	9626	I
Hydroxypethidine	9627	I
Ketobemidone	9628	I

Controlled substance	Drug code	Schedule
Levomoramide	9629	I
Levophenacylmorphan	9631	I
Morpheridine	9632	I
Noracymethadol	9633	I
Norlevorphanol	9634	I
Normethadone	9635	I
Norpipanone	9636	I
Phenadoxone	9637	I
Phenampromide	9638	I
Phenoperidine	9641	I
Piritramide	9642	I
Proheptazine	9643	I
Properidine	9644	I
Racemoramide	9645	I
Trimeperidine	9646	I
Phenomorphan	9647	I
Propiram	9649	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine	9663	I
Tilidine	9750	I
Butonitazene	9751	I
Lunitazene (N,N-diethyl-2-(2-(4-fluorobenzyl)-5-nitro1H-benzimidazol-1-yl)ethan-1- amine)	9756	I
Metonitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1Hbenzimidazol-1-yl)ethan-1-amine	9757	I
N-pyrrolidino etonitazene; etonitazepyne (2-(4-ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1Hbenzimidazole)	9758	I
Protonitazene (N,N-diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl)ethan-1-amine)	9759	I
Metodesnitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)- 1H-benzimidazol-1- yl)ethan-1-amine)	9764	I
Etodesnitazene; etazene (2-(2-(4-ethoxybenzyl)- 1Hbenzimidazol-1-yl)-N,N-diethylethan-1- amine)	9765	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide	9816	I
Para-Methylfentanyl (N-(4-methylphenyl)-N-(1- phenethylpiperidin-4-yl)propionamide; also known as 4-methylfentanyl).	9817	I
4'-Methyl acetyl fentanyl (N-(1-(4- methylphenethyl)piperidin-4-yl)-N-phenylacetamide)	9819	I
Ortho-Methyl methoxyacetyl fentanyl (2-methoxy-N-(2- methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide)	9820	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Para-fluorobutyryl fentanyl	9823	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Para-chloroisobutyryl fentanyl	9826	I
Isobutyryl fentanyl	9827	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Para-methoxybutyryl fentanyl	9837	I
Ocfentanil	9838	I
Thiofuranyl fentanyl (N-(1-phenethylpiperidin-4-yl)-Nphenylthiophene-2-carboxamide; also known as 2- thiofuranyl fentanyl; thiophene fentanyl).	9839	I
Valeryl fentanyl	9840	I
Phenyl fentanyl (N-(1-phenethylpiperidin-4-yl)-Nphenylbenzamide; also known as benzoyl fentanyl)	9841	I
Beta'-Phenyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N,3- diphenylpropanamide; also known as β'-phenyl fentanyl; 3-phenylpropanoyl fentanyl).	9842	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide	9843	I
Crotonyl fentanyl ((E–N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide)	9844	I
Cyclopropyl Fentanyl	9845	I
Cyclopentyl fentanyl	9847	I
Ortho-Methyl acetylfentanyl (N-(2-methylphenyl)-N-(1- phenethylpiperidin-4-yl)acetamide; also known as 2- methyl acetylfentanyl).	9848	I
Fentanyl related-compounds as defined in 21 CFR 1308.11(h)	9850	I
Fentanyl carbamate (ethyl (1-phenethylpiperidin-4- yl)(phenyl)carbamate)	9851	I
Ortho-Fluoroacryl fentanyl (N-(2-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)acrylamide)	9852	I
Ortho-Fluoroisobutyryl fentanyl (N-(2-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)isobutyramide)	9853	I
Para-Fluoro furanyl fentanyl (N-(4-fluorophenyl)-N-(1- phenethylpiperidin-4-yl)furan-2-carboxamide)	9854	I
2'-Fluoro ortho-fluorofentanyl (N-(1-(2- fluorophenethyl)piperidin-4-yl)-N-(2- fluorophenyl)propionamide; also known as 2'-fluoro 2- fluorofentanyl).	9855	I
Beta-Methyl fentanyl (N-phenyl-N-(1-(2- phenylpropyl)piperidin-4-yl)propionamide; also known as β-methyl fentanyl)	9856	I
Zipeprol	9873	I

Controlled substance	Drug code	Schedule
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Dronabinol in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration	7365	II
Nabilone	7379	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
ANPP (4-Anilino-N-phenethyl-4-piperidine)	8333	II
Norfentanyl (N-phenyl-N-(piperidin-4-yl) propionamide)	8366	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Alphaprodine	9010	II
Anileridine	9020	II
Coca Leaves	9040	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Metazocine	9240	II
Oliceridine (N-[(3-methoxythiophen-2yl)methyl] ({2-[9r)-9-(pyridin-2-yl)-6-oxaspiro[4.5] decan-9-yl] ethyl {time})amine fumarate).	9245	II
Methadone	9250	II
Methadone intermediate	9254	II
Metopon	9260	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Dihydroetorphine	9334	II
Opium, raw	9600	II
Opium extracts	9610	II
Opium fluid extract	9620	II
Opium tincture	9630	II
Opium, powdered	9639	II
Opium, granulated	9640	II
Levo-alphacetylmethadol	9648	II
Opium poppy	9650	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Poppy Straw Concentrate	9670	II
Phenazocine	9715	II
Thiafentanil	9729	II
Piminodine	9730	II
Racemethorphan	9732	II
Racemorphan	9733	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Bezitramide	9800	II
Fentanyl	9801	II
Moramide-intermediate	9802	II

The company plans to import analytical reference standards for distribution to its customers for research and analytics purposes. Placement of these drug codes onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized in 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2023–21404 Filed 9–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1274]

Importer of Controlled Substances Application: Cambridge Isotope Laboratories, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Cambridge Isotope Laboratories, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before October 30, 2023. Such persons may also file a written request for a hearing on the application on or before October 30, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on August 25, 2023, Cambridge Isotope Laboratories, Inc. 50 Frontage Road, Andover, Massachusetts 01810–5413, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Tetrahydrocannabinols	7370	I
Morphine	9300	II

The company plans to import the listed controlled substances for preparation of analytical standards and formulations. In reference to drug codes 7370 (Tetrahydrocannabinols), the company plans to import a synthetic Tetrahydrocannabinol. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Claude Redd,

Acting Deputy Assistant Administrator.

[FR Doc. 2023–21402 Filed 9–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Formaldehyde Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety & Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 30, 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) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Formaldehyde Standard and its collections of information are designed to provide protection for workers from the adverse health effects associated with occupational exposure to formaldehyde. The Standard requires employers to monitor worker exposure and provide notification to workers of their exposure. Employers are required to make available medical surveillance to workers. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 28, 2023 (88 FR 41984).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of

law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Formaldehyde Standard.

OMB Control Number: 1218–0145.

Affected Public: Private sector—businesses or other for-profits.

Total Estimated Number of Respondents: 86,575.

Total Estimated Number of Responses: 990,175.

Total Estimated Annual Time Burden: 263,172 hours.

Total Estimated Annual Other Costs Burden: $54,153,624.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Acting Departmental Clearance Officer.

[FR Doc. 2023–21417 Filed 9–28–23; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

[Agency Docket Number DOL–2023–xxxx]

Efforts by Certain Foreign Countries To Eliminate the Worst Forms of Child Labor; Identify Child Labor, Forced Labor, and Forced or Indentured Child Labor in the Production of Goods in Foreign Countries; and Share Business Practices To Reduce the Likelihood of Forced Labor or Child Labor in the Production of Goods

AGENCY: The Bureau of International Labor Affairs, United States Department of Labor.

ACTION: Notice; request for information and invitation to comment.

SUMMARY: This notice is a request for information and/or comment on three reports issued by the Bureau of International Labor Affairs (ILAB) regarding child labor and forced labor in certain foreign countries. Relevant information submitted by the public will be used by the Department of Labor (DOL) in preparing its ongoing reporting as required under Congressional mandates and a Presidential directive.

DATES: Submitters of information are requested to provide their submission to DOL's Office of Child Labor, Forced Labor, and Human Trafficking (OCFT) at the email or physical address below by December 15, 2023.

ADDRESSES:

To Submit Information: Information should be submitted directly to OCFT, Bureau of International Labor Affairs, U.S. Department of Labor. Comments, identified as Docket No. DOL–2023–xxxx, may be submitted by any of the following methods:

Federal eRulemaking Portal: The portal includes instructions for submitting comments. Parties submitting responses electronically are encouraged not to submit paper copies.

Facsimile (fax): OCFT at 202–693–4830.

Mail, Express Delivery, Hand Delivery, and Messenger Service (1 copy): Matthew Fraterman, U.S. Department of Labor, OCFT, Bureau of International Labor Affairs, 200 Constitution Avenue NW, Room S–5315, Washington, DC 20210.

Email: Email submissions should be addressed to Matthew Fraterman (*Fraterman.matthew@dol.gov*).

508 Compliance: Pursuant to section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended. Section 508 became enforceable on June 21, 2001, and the Revised 508 standards issued by the United States Access Board (36 CFR part 1194), January 2018 require that Information and Communication Technology (ICT) procured, developed, maintained, and used by Federal departments and agencies is accessible to and usable by Federal employees and members of the public including people with disabilities. All documents received in electronic format must be accessible using assistive technologies such as a screen reader, *e.g.,* Job Aid with Speech (JAWS), NonVisual Desktop Access (NVDA), ZoomText, to name a few. The product should also be navigable using other means such as a keyboard or voice commands. Accessible document formats are either Microsoft Word or equivalent and Portable Document Format with OCR.

The Department of Labor requests that your submissions through the portal comply with our DOL Policies as well as the 508 Standards as referenced above.

FOR FURTHER INFORMATION CONTACT: Matthew Fraterman (*Fraterman.matthew@dol.gov*). Telephone: 202–693–4770.

SUPPLEMENTARY INFORMATION: The 2022 Findings on the Worst Forms of Child Labor (TDA Report), published on September 26, 2023, assesses efforts of 131 countries to eliminate the worst forms of child labor in 2022 and assesses whether countries made significant, moderate, minimal, or no advancement during that year. It also suggests actions foreign countries can take to eliminate the worst forms of child labor through legislation, enforcement, coordination, policies, and social programs. The 2022 edition of the List of Goods Produced by Child Labor or Forced Labor (TVPRA List), published on September 21, 2022, makes available to the public a list of goods from countries that ILAB has reason to believe are produced by child labor or forced labor in violation of international standards, including, to the extent practicable, goods that are produced with inputs that are produced with forced labor or child labor. DOL welcomes new information on any of the goods identified on the TVPRA List. Finally, the List of Products Produced by Forced or Indentured Child Labor (E.O. List), provides a list of products, identified by country of origin, that DOL, in consultation and cooperation with the Departments of State (DOS) and Homeland Security (DHS), has a reasonable basis to believe might have been mined, produced, or manufactured with forced or indentured child labor. Relevant information submitted by the public will be used by DOL in preparing the next edition of the TDA Report, to be published in 2024; the next edition of the TVPRA List, which will also be published in 2024; and for possible updates to the E.O. List as needed.

This notice is also a request for information and/or comment on Comply Chain: Business Tools for Labor Compliance in Global Supply Chains (Comply Chain). ILAB is seeking information on current practices of firms, business associations, and other private sector groups to reduce the likelihood of child labor and forced labor in the production of goods. This information and/or comment is sought to fulfill ILAB's mandate under the Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA) to work with persons who are involved in the production of goods made with forced labor or child labor. Comply Chain seeks to address this mandate through the creation of a standard set of practices for worker-driven social compliance that will reduce the likelihood that such persons will produce goods using forced labor or child labor. Comply Chain also achieves a much broader purpose by actively supporting the efforts of companies that seek to address these issues within their own supply chains. Relevant information and/or comment submitted to ILAB will be used to improve and

update Comply Chain to better meet the mandates of the TVPRA and help companies and industry groups seeking to develop robust social compliance systems for their global production.

I. The Trade and Development Act of 2000 (TDA), Public Law 106–200 (2000), established eligibility criterion for receipt of trade benefits under the Generalized System of Preferences (GSP). The TDA amended the GSP reporting requirements of section 504 of the Trade Act of 1974, 19 U.S.C. 2464, to require that the President's annual report on the status of internationally recognized worker rights include ''findings by the Secretary of Labor with respect to the beneficiary country's implementation of its international commitments to eliminate the worst forms of child labor.''

The TDA Conference Report clarifies this mandate, indicating that the President consider the following when considering whether a country is complying with its obligations to eliminate the worst forms of child labor: (1) whether the country has adequate laws and regulations proscribing the worst forms of child labor; (2) whether the country has adequate laws and regulations for the implementation and enforcement of such measures; (3) whether the country has established formal institutional mechanisms to investigate and address complaints relating to allegations of the worst forms of child labor; (4) whether social programs exist in the country to prevent the engagement of children in the worst forms of child labor, and to assist with the removal of children engaged in the worst forms of child labor; (5) whether the country has a comprehensive policy for the elimination of the worst forms of child labor; and (6) whether the country is making *continual progress* toward eliminating the worst forms of child labor.

DOL fulfills this reporting mandate through annual publication of the U.S. Department of Labor's Findings on the Worst Forms of Child Labor. To access the 2022 TDA Report please visit *https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings*.

II. Section 105(b) of the Trafficking Victims Protection Reauthorization Act of 2005 (''TVPRA of 2005''), Public Law 109–164 (2006), 22 U.S.C. 7112(b), as amended by section 133 of the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, Public Law 115–425 (2019), directs the Secretary of Labor, acting through ILAB, to ''develop and make available to the public a list of goods from countries that [ILAB] has reason to believe are produced by forced labor or child labor in violation of international standards, including, to the extent practicable, goods that are produced with inputs that are produced with forced labor or child labor'' (TVPRA List). It also asks ILAB ''to work with persons who are involved in the production of goods on the list . . . to create a standard set of practices that will reduce the likelihood that such persons will produce goods using [child labor or forced labor]'' (Comply Chain).

Pursuant to this mandate, DOL published in the **Federal Register** a set of procedural guidelines that ILAB follows in developing the TVPRA List. 72 FR 73374 (Dec. 27, 2007). The guidelines set forth the criteria by which information is evaluated; established procedures for public submission of information to be considered by ILAB; and identified the process ILAB follows in maintaining and updating the List after its initial publication. DOL published an update to the procedural guidelines to incorporate the expanded requirement to include ''to the extent practicable, goods that are produced with inputs that are produced with forced labor or child labor. 85 FR 29487 (May 15, 2020). ILAB will amend the procedural guidelines as necessary.

ILAB published its first TVPRA List on September 30, 2009, and has issued 9 updates. The next TVPRA List will be published in 2024. For a copy of previous editions of the TVPRA List and other materials relating to the TVPRA List, see ILAB's TVPRA web page.

III. Executive Order No. 13126 (E.O. 13126) declared that it was ''the policy of the United States Government . . . that the executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by forced or indentured child labor.'' Pursuant to E.O. 13126, and following public notice and comment, the Department of Labor published in the January 18, 2001, **Federal Register**, a list of products (''E.O. List''), identified by country of origin, that the Department, in consultation and cooperation with the Departments of State (DOS) and Treasury [relevant responsibilities are now within the Department of Homeland Security (DHS)], had a reasonable basis to believe might have been mined, produced, or manufactured with forced or indentured child labor. 66 FR 5353 (Jan. 18, 2001). In addition to the List, the Department also published on January 18, 2001, ''Procedural Guidelines for Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor,'' which provide for maintaining, reviewing, and, as appropriate, revising the E.O. List. 66 FR 5351 (Jan. 18, 2001).

Pursuant to sections D through G of the Procedural Guidelines, the E.O. List may be updated through consideration of submissions by individuals or through OCFT's own initiative. ILAB released its initial E.O. List in 2001, and has revised it several times since then, each time after public notice and comment as well as consultation with DOS and DHS. As of July 13, 2022, the E.O. List comprises 34 products from 26 countries. Access to the current E.O. List, Procedural Guidelines, and related information is available online.

Information Requested and Invitation to Comment: Interested parties are invited to comment and provide information regarding these reports. DOL requests comments on or information relevant to updating the findings and suggested government actions for countries reviewed in the TDA Report, assessing each country's individual advancement toward eliminating the worst forms of child labor during the current reporting period compared to previous years, and maintaining and updating the TVPRA and E.O. Lists.

Materials submitted should be confined to the specific topics of the TDA Report, the TVPRA List, and the E.O. List. DOL will generally consider sources with dates up to five years old (*i.e.,* data not older than January 1, 2019). DOL appreciates the extent to which submissions clearly indicate the time period to which they apply. In the interest of transparency in our reporting, classified information will not be accepted. Where applicable, information submitted should indicate its source or sources, and copies of the source material should be provided. If primary sources are utilized, such as research studies, interviews, direct observations, or other sources of quantitative or qualitative data, details on the research or data-gathering methodology should be provided. Please see the TDA Report, TVPRA List, and E.O. List for a complete explanation of relevant terms, definitions, and reporting guidelines employed by DOL. Per our standard procedures, submissions will be published on the ILAB web page.

IV. Section 105(b)(2)(D) of the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005 mandates that ILAB ''work with persons who are involved in the production of goods on [ILAB's List of Goods Produced by Child Labor or Forced Labor] to create a standard set of practices that will reduce the likelihood

that such persons will produce goods using [forced and child labor].''

Many firms have policies, activities, and/or systems in place to monitor labor rights in their supply chains and remediate violations. Such policies, activities, and systems vary depending on location, industry, and many other factors. ILAB seeks to identify practices that have been effective in specific contexts, analyze their replicability, and disseminate those that have potential to be effective on a broader scale through Comply Chain.

Information Requested and Invitation to Comment: In addition to general comments on the existing publication of Comply Chain, ILAB is seeking information on current practices of firms, business associations, and other private sector groups to reduce the likelihood of child labor and forced labor in the production of goods. ILAB welcomes any and all input. Examples of materials could include, but are not limited to: (1) Codes of conduct; (2) Sets of standards used for implementation of codes in specific industries or locations or among particular labor populations; (3) Auditing/monitoring systems, or components of such systems, as well as related systems for enforcement of labor standards across a supply chain; (4) Strategies for monitoring sub-tier suppliers, informal workplaces, homework, and other challenging environments; (5) Training modules and other mechanisms for communicating expectations to stakeholders which incorporate worker input; (6) Traceability models or experiences; (7) Remediation strategies for children and/or adults found in conditions of forced or child labor; (8) Reporting-related practices and practices related to independent review; (9) Projects at the grassroots level which address underlying issues or root causes of child labor or forced labor; (10) and/or any other relevant practices.

In addition, ILAB is seeking information on current practices of governments to collaborate with private sector actors through public-private partnerships to reduce the likelihood of child labor and forced labor in the production of goods. Submissions may include policy documents, reports, statistics, case studies, and many other formats. In addition, ILAB welcomes submissions of reports, analyses, guidance, toolkits, and other documents in which such practices have been compiled or analyzed by third-party groups. Information should be submitted to the addresses and within the time period set forth above. DOL seeks information that can be used to inform the development of tools and resources to be disseminated publicly on the DOL website and/or in other publications. However, in disseminating information, DOL will conceal, to the extent permitted by law, the identity of the submitter and/or the individual or company using the practice in question, upon request. Internal, confidential documents that cannot be shared with the public will not be used. Submissions containing confidential or personal information may be redacted by DOL before being made available to the public, in accordance with applicable laws and regulations. DOL does not commit to responding directly to submissions or returning submissions to the submitters, but DOL may communicate with the submitter regarding any matters relating to the submission.

This notice is a general solicitation of comments from the public.

Authority: 22 U.S.C. 7112(b)(2)(C) & (D) and 19 U.S.C. 2464; Executive Order 13126.

Signed at Washington, DC, this 25th day of September, 2023.

Thea Lee,

Deputy Undersecretary for International Affairs.

[FR Doc. 2023–21416 Filed 9–28–23; 8:45 am]

BILLING CODE 4510–28–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 23–06]

Notice of Entering Into a Compact With the Republic of Mozambique

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the provisions of the Millennium Challenge Act of 2003, as amended, the Millennium Challenge Corporation (MCC) is publishing a summary of the Millennium Challenge Compact (Compact) between the United States of America and the Republic of Mozambique. Representatives of the United States of America and the Republic of Mozambique executed the Compact on September 21, 2023. The complete text of the Compact has been posted at: *https://assets.mcc.gov/content/uploads/compact-mozambique-ccr.pdf.*

(Authority: 22 U.S.C. 7709 (b)(3))

Dated: September 25, 2023.

Gina Porto Spiro,

Acting Vice President, General Counsel, and Corporate Secretary.

Summary of Mozambique Connectivity and Coastal Resilience Compact

The United States has signed a five-year, $500,000,000 Compact with the Republic of Mozambique aimed at reducing poverty through economic growth.

The Compact seeks to assist the Government of the Republic of Mozambique (''GRM'') in addressing three major constraints to economic growth: (i) the high cost and unreliability of road freight and passenger transport services that inhibits input and output market development, farm to market linkages, and access to basic public services; (ii) agricultural policy, the legal and regulatory framework, and implementation of the existing framework, which inhibit the equitable and efficient functioning of input markets, vertical coordination of value chains, and input and output market competitiveness; and (iii) agricultural policy, the legal and regulatory framework which has led to an overexploitation of fisheries and depleted economic opportunities for coastal zones.

The Compact will address these constraints through three primary projects:

(1) The Connectivity and Rural Transport Project (using the Portuguese acronym, the ''CTR Project'');

(2) The Promoting Reform and Investment in Agriculture Project (the ''PRIA Project''); and

(3) The Coastal Livelihoods and Climate Resilience Project (the ''CLCR Project'').

Project Summaries

The Compact's three projects are described below:

The objective of the Connectivity and Rural Transport (CTR) Project is to reduce the cost of transport in the province of Zambezia and throughout Mozambique. The CTR Project will include a set of investments in arterial routes, including a major bridge, and secondary roads through rural areas to district centers as described below:

- *Licungo Bridge and Mocuba Bypass Activity*—The Licungo Bridge and Mocuba Bypass Activity is the principal activity under the CTR Project and the GRM's highest priority transport project in Zambezia. The investment will create a new major, high-level bridge, replacing a nearly 80-year-old one, diverting the traffic around the town of

Mocuba at a new site across the Licungo River via a 16km bypass.

• *Rural Roads Activity*—This activity will focus on select segments of arterial and secondary routes for inclusion in the Compact to improve access to regional capitals, markets, and social services.

• *Policy and Institutional Reforms on Road Maintenance Activity*—This activity seeks to improve the reliability and adequacy of funding for road maintenance and build capacity for road asset management at the provincial level, as well as to promote gender equity and social inclusion within the transport sector, specifically enhancing opportunities for women and excluded groups in the road sector.

In addition to the above activities, the Compact will support a project-specific program management office to supervise the CTR Project. This project management consultant is necessary to ensure the geographically dispersed construction works in Zambezia are well managed.

The objective of the Promoting Reform and Investment in Agriculture (PRIA) Project is to increase agricultural investment as well as the productivity and incomes of smallholder farmers, including female-headed households, and other value chain actors in Mozambique.

This project is organized into two activities:

• *Reforms Package for Taxation of Agricultural Investment Activity*—This activity is a public financial management activity that includes support for policy and institutional reform of the national taxation framework in the agriculture sector, with a focus on improving consistency and predictability of the value added tax, the corporate income tax, and local tax application within both formal and informal markets.

• *Zambezia Commercial Aggregator (ZCAP) Activity*—This activity will employ results-based financing (*i.e.,* success payments) and technical assistance to develop and strengthen sustainable market linkages and contracts between commercial agricultural aggregators and smallholder farmers. The ZCAP Activity will prioritize women smallholder farmers and provide tailored training to smallholder farmer households through the 'Gender Action Learning System' to redress power imbalances.

The Coastal Livelihoods and Climate Resilience (CLCR) Project seeks to increase ecosystem productivity through sustainable increases in fish and shellfish harvests and through non-extractive benefits from sustainable ecosystems, such as carbon credits and coastal protection benefits.

This project is organized into two activities:

• *Coastal Livelihoods Activity*—This activity will help local communities better manage their fisheries through modernization of practice, improvement to their fishing gear, improved supply chain, and governance of local areas (establishment of no-catch zones to replenish stocks).

• *Climate Resilience Activity*—This activity will protect and restore critical habitats through co-management with local communities, conservation and creation of protected areas, reforestation initiatives, and through carbon finance opportunities.

Compact Overview and Budget

The Compact Program is summarized in the budget table below. The program budget is approximately $537,500,000, which includes up to $500,000,000 funded by MCC and a GRM contribution of $37,500,000.

TABLE 1—MOZAMBIQUE COMPACT PROGRAM BUDGET

Component	Amount
1. Connectivity and Rural Transport Project	$310,500,000
Activity 1: Licungo Bridge & Mocuba Bypass	201,001,000
Activity 2: Rural Roads	83,499,000
Activity 3: Policy and Institutional Reforms on Road Maintenance	11,000,000
Program Management Office	15,000,000
2. Promoting Reform and Investment in Agriculture Project	30,000,000
Activity 1: Reforms Package for Taxation of Agricultural Investments	15,000,000
Activity 2: Zambezia Commercial Aggregator Platform	15,000,000
3. Coastal Livelihoods & Climate Resilience Project	100,000,000
Activity 1: Partnership Climate Resilience	56,300,000
Activity 2: Partnership Coastal Livelihoods	43,700,000
4. Monitoring and Evaluation	7,000,000
5. Program Management and Administration	52,500,000
Total MCC Funding	500,000,000
Government of the Republic of Mozambique Contribution	37,500,000
Total Compact Program	537,500,000

[FR Doc. 2023–21314 Filed 9–28–23; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2023–044]

National Industrial Security Program Policy Advisory Committee (NISPPAC); Meeting

AGENCY: Information Security Oversight Office (ISOO), National Archives and Records Administration (NARA).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: We are announcing an upcoming National Industrial Security Program Policy Advisory Committee (NISPPAC) meeting in accordance with the Federal Advisory Committee Act and implementing regulations.

DATES: The meeting will be on November 15, 2023, from 10am–1pm EST.

ADDRESSES: This meeting will be a virtual meeting. See supplementary procedures below.

FOR FURTHER INFORMATION CONTACT: Heather Harris Pagán, ISOO Program Analyst, by telephone at 202.357.5351 or by email at *ISOO@nara.gov.* Contact ISOO at *ISOO@nara.gov* and the NISPPAC at *NISPPAC@nara.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public in accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulations at 41 CFR 102–3. The Committee will discuss National Industrial Security Program policy matters.

Procedures: Members of the public must register in advance for the virtual meeting through the Event Services link *https://ems8.intellor.com?do=register&t=1&p=848621* if they wish to attend. NISPPAC members, ISOO employees, and speakers should send an email to *NISPPAC@nara.gov* for the appropriate registration information instead of registering with the above link.

Tasha Ford,

Committee Management Officer.

[FR Doc. 2023–21371 Filed 9–28–23; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Renewal of Agency Information Collections for Comments Request: Proposed Collections

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comments.

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: Written comments should be received on or before November 28, 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, Alexandria, Virginia 22314, Suite 5067; Fax No. 703–519–8579; or email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Mahala Vixamar at (703) 718–1155.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0061.

Title: Central Liquidity Facility, 12 CFR part 725.

Type of Review: Extension of a previously approved collection.

Abstract: Part 725 contains the regulations implementing the National Credit Union Central Liquidity Facility Act, subchapter III of the Federal Credit Union Act. The NCUA Central Liquidity Facility is a mixed-ownership Government corporation within the NCUA. It is managed by the NCUA Board and is owned by its member credit unions. The purpose of the Facility is to improve the general financial stability of credit unions by meeting their liquidity needs and thereby encourage savings, support consumer and mortgage lending and provide basic financial resources to all segments of the economy. The Central Liquidity Facility achieves this purpose through operation of a Central Liquidity Fund (CLF). The collection of information under this part is necessary for the CLF to determine credit worthiness, as required by 12 U.S.C 1795e (2).

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 691.

OMB Number: 3133–0141.

Title: Organization and Operations of Federal Credit Unions—Loan Participation, 12 CFR 701.22.

Type of Review: Extension of a previously approved collection.

Abstract: The NCUA Rules and Regulations, sections 701.22 and 741.225, outline the requirements for a loan participation program. FICUs are required to execute a written loan participation agreement with the lead lender. Additionally, the rule requires all FICUs to maintain a loan participation policy that establishes underwriting standards and maximum concentration limits. Credit unions may apply for waivers on certain key provisions of the rule.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 3,025.

Request For Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By the National Credit Union Administration Board.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2023–21495 Filed 9–28–23; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440; NRC–2023–0136]

Energy Harbor Corp.; Energy Harbor Generation LLC; Energy Harbor Nuclear Corp.; Perry Nuclear Power Plant, Unit 1

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal application; acceptance for docketing; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the renewal of Facility Operating License No. NPF–58, which authorizes Energy Harbor Nuclear Corp. (Energy Harbor, the applicant), doing business as Energy Harbor Nuclear Generation LLC, to operate Perry Nuclear Power Plant (PNPP), Unit 1. The renewed license would authorize the applicant to operate PNPP for an additional 20 years beyond the period specified in the current license. The current operating license for PNPP expires on November 7, 2026.

DATES: A request for a hearing or petition for leave to intervene must be filed by November 28, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0136 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0136. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed

in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *Public Library:* A copy of the license renewal application for PNPP will be available at the following public library: Perry Public Library, 3753 Main St, Perry, OH 44081.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Vaughn Thomas, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5897; email: *Vaughn.Thomas@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC received a license renewal application (LRA) from Energy Harbor, dated July 3, 2022 (ADAMS Accession No. ML23184A081), filed pursuant to Section 103 of the Atomic Energy Act of 1954, as amended (the Act), and part 54 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' to renew the PNPP operating license for an additional period of 20 years. The PNPP Unit 1 is a Boiling Water Reactor licensed to operate at 3,758 megawatts thermal, and is located in Perry, Ohio. A notice of receipt of the LRA was published in the **Federal Register** on August 9, 2023 (88 FR 53933).

The NRC staff has determined that Energy Harbor submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, 51.45, and 51.53(c), to enable the staff to undertake a review of the application, and that the application is, therefore, acceptable for docketing. The current Docket No. 50–440 for Facility Operating License No. NPF–58 will be retained. The determination to accept the LRA for docketing does not constitute a determination that a renewed operating license should be issued and does not preclude the NRC staff from requesting additional information as the review proceeds.

Before issuance of the requested renewed license, the NRC will have made the findings required by the Act and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC may issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review; and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed licenses will continue to be conducted in accordance with the current licensing basis and that any changes made to the plant's current licensing basis will comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement as a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants,'' dated June 2013 (ADAMS Accession No. ML13106A241). In considering the LRA, the Commission must find that the applicable requirements of subpart A of 10 CFR part 51 have been satisfied, and that any matters raised under 10 CFR 2.335 have been addressed. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold public scoping meetings. Detailed information regarding the environmental scoping meetings will be the subject of a separate **Federal Register** notice.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and the NRC's public website at *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate.*

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that request to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at

Hearing.Docket@nrc.gov, or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket is created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9:00 a.m. and 6:00 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

Information about the license renewal process can be found under the Reactor License Renewal section on the NRC's public website at *https://www.nrc.gov/reactors/operating/licensing/renewal.html.* Copies of the application to renew the operating licenses for CPNPP are available for public inspection at the NRC's PDR, and on the NRC's public website at *https://www.nrc.gov/reactors/operating/licensing/renewal/applications.html.* The application may be accessed in ADAMS through the NRC Library on the internet at *https://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession No. ML23184A081. As previously stated, persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC's PDR reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by email to *PDR.Resources@nrc.gov.*

Dated: September 26, 2023.

For the Nuclear Regulatory Commission.

Lauren K. Gibson,

Chief, License Renewal Project Branch, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–21448 Filed 9–28–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0037]

Information Collection: NRC Form 536, Operator Licensing Examination Data

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 536, ''Operator Licensing Examination Data.''

DATES: Submit comments by October 30, 2023. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0037 when contacting the NRC about the availability of information for this action. You may obtain publicly

available information related to this action by any of the following methods:

• *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0037.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML23030B880. The supporting statement is available in ADAMS under Accession No. ML23206A191.

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

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Form 536, ''Operator Licensing Examination Data.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on June 22, 2023, 88 FR 40873.

1. *The title of the information collection:* NRC Form 536, ''Operator Licensing Examination Data.''

2. *OMB approval number:* 3150–0131.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Form 536.

5. *How often the collection is required or requested:* Annually.

6. *Who will be required or asked to respond:* (a) All holders of operating licenses for nuclear power reactors under the provision of part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' except those that have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel, (b) all holders of, or applicants for, a limited work authorization, early site permit, or combined licenses issued under 10 CFR part 52, ''Licenses, Certifications and Approval for Nuclear Power Plants.''

7. *The estimated number of annual responses:* 68.

8. *The estimated number of annual respondents:* 68.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 51.

10. *Abstract:* The NRC is requesting renewal of its clearance to annually request all commercial power reactor licensees and applicants for an operating license to voluntarily send to the NRC: (1) their projected number of candidates for initial operator licensing examinations; (2) the estimated dates of the examinations, and (3) if the examinations will be facility developed or NRC developed. This information is used to plan budgets and resources in regard to operator examination scheduling in order to meet the needs of the nuclear power industry.

Dated: September 26, 2023.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2023–21386 Filed 9–28–23; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee Virtual Public Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act, notice is hereby given that a virtual meeting of the Federal Prevailing Rate Advisory Committee will be held on Thursday, October 19, 2023. There will be no in-person gathering for this meeting.

DATES: The virtual meeting will be held on October 19, 2023, beginning at 10:00 a.m. (ET).

ADDRESSES: The meeting will convene virtually.

FOR FURTHER INFORMATION CONTACT: Ana Paunoiu, 202–606–2858, or email *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: The Federal Prevailing Rate Advisory Committee (Committee) is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal prevailing rate employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public. Reports for calendar years 2008 to 2020 are posted at *http://www.opm.gov/fprac.* Previous

reports are also available, upon written request to the Committee.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee at Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 7H31, 1900 E Street NW, Washington, DC 20415, (202) 606–2858.

This meeting is open to the public, with an audio option for listening. This notice sets forth the agenda for the meeting and the participation guidelines.

Meeting Agenda. The tentative agenda for this meeting includes the following Federal Wage System items:

- The definition of Monroe County, PA
- The definition of San Joaquin County, CA
- The definition of the Salinas-Monterey, CA, wage area
- The definition of the Puerto Rico wage area

Public Participation: The October 19, 2023 meeting of the Federal Prevailing Rate Advisory Committee is open to the public through advance registration. Public participation is available for the meeting. All individuals who plan to attend the virtual public meeting to listen must register by sending an email to *pay-leave-policy@opm.gov* with the subject line ''October 19, 2023'' no later than Tuesday, October 17, 2023.

The following information must be provided when registering:

- Name.
- Agency and duty station.
- Email address.
- Your topic of interest.

Members of the press, in addition to registering for this event, must also RSVP to *media@opm.gov* by October 17, 2023.

A confirmation email will be sent upon receipt of the registration. Audio teleconference information for participation will be sent to registrants the morning of the virtual meeting.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

[FR Doc. 2023–21370 Filed 9–28–23; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2023–281 and CP2023–284; MC2023–282 and CP2023–285; MC2023–283 and CP2023–286]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 3, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2023–281 and CP2023–284; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 66 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 25, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Samuel Robinson; *Comments Due:* October 3, 2023.

2. *Docket No(s).:* MC2023–282 and CP2023–285; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 67 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 25, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Samuel Robinson; *Comments Due:* October 3, 2023.

3. *Docket No(s).:* MC2023–283 and CP2023–286; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 9 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 25, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* October 3, 2023.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–21468 Filed 9–28–23; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Notice of Availability of Final Supplemental Environmental Impact Statement for Next Generation Delivery Vehicles Acquisitions

Pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, its implementing regulations at 39 CFR part 775, and the Council on Environmental Quality's regulations (40 CFR parts 1500–1508), the U.S. Postal Service announces availability of the Final Supplemental Environmental Impact Statement (SEIS) which analyzes the environmental impacts of a range of alternatives for a modification to the Postal Service's February 23, 2022, Record of Decision (ROD) to purchase, over ten years, 50,000 to 165,000 purpose-built, right-hand drive vehicles—the Next Generation Delivery Vehicle (NGDV)—to replace existing delivery vehicles nationwide that are beyond the end of their service life. A minimum of 10 percent of those vehicles would be battery electric vehicles (BEVs).

The Postal Service has identified Alternative 1 as its Preferred Alternative, which is the purchase and deployment of a mixed fleet of Commercial Off-the-Shelf and NGDV vehicles. Of the total quantity of 106,480 vehicles to be procured under this SEIS, 62 percent would be BEV. Interested parties may view the Final SEIS and all prior NEPA documents related to this procurement at *http://uspsngdveis.com/*.

References

1. U.S. Postal Service, Notice of Availability of Record of Decision, Next Generation Delivery Vehicles Acquisitions (87 FR 14588; Mar. 15, 2022).
2. U.S. Postal Service, Notice of Intent to Prepare a Supplement to the Next Generation Delivery Vehicles Acquisitions Final Environmental Impact Statement (87 FR 35581; June 10, 2022).
3. U.S. Postal Service, Notice to Postpone Public Hearing and Extend Public Comment Period for Supplement to the Next Generation Delivery Vehicles Acquisitions Final Environmental Impact Statement (87 FR 43561; July 21, 2022).
4. U.S. Postal Service, Notice of Availability of Draft Supplemental Environmental Impact Statement for Next Generation Delivery Vehicles Acquisitions (88 FR 125; June 30, 2023).

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2023–21201 Filed 9–28–23; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98515; File No. SR–PEARL–2023–49]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Provide Eligible Members Another Opportunity To Elect To Participate in the Maintaining Qualifications Program

September 25, 2023.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 22, 2023, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Interpretation and Policy .01 to Exchange Rule 3103, Continuing Education, to provide eligible Members[3] another opportunity to elect to participate in the Maintaining Qualifications Program (''MQP'').

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings,* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Interpretation and Policy .01 to Exchange Rule 3103, Continuing Education, to provide eligible Members another opportunity to elect to participate in the Maintaining Qualifications Program (''MQP'').

The continuing education program for registered persons of Members (''CE Program'') currently requires registered persons to complete continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element is administered by the Financial Industry Regulatory Authority, Inc. (''FINRA''). FINRA, on behalf of the Exchange, focuses on regulatory requirements and industry standards, while the Firm Element is provided by each firm and focuses on securities products, services and strategies the firm offers, firm policies and industry trends.

The CE Program is codified under the rules of the self-regulatory organizations. The CE Program for registered persons of Exchange Members is codified under Exchange Rule 3103, Continuing Education.[4] This proposed rule change is based on a filing recently submitted by FINRA and is intended to harmonize the Exchange's continuing education rules with those of FINRA so as to promote uniform standards across the securities industry.[5] The proposed rule change is discussed in detail below.

On June 10, 2022, the Exchange amended Exchange Rule 3100, Registration Requirements, and Exchange Rule 3103, Continuing Education, to, among other things, provide eligible individuals who

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] *See also* Exchange Rule 3103, Interpretation and Policy .06, All Registered Persons Must Satisfy the Regulatory Element of Continuing Education.

[5] *See* Securities Exchange Act Release No. 97184 (Mar. 22, 2023), 88 FR 18359 (Mar. 28, 2023) (SR–FINRA–2023–005) (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) (''FINRA Rule Change'').

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.[6] By that time, however, the First Enrollment Period, defined below, had expired, leaving many eligible individuals from being able to participate in the MQP. This proposed rule change will provide those eligible individuals a second opportunity to elect to participate in the MQP to maintain their qualification.

Prior to the MQP, individuals whose registrations as representative 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.[7] Specifically, the MQP 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 Exchange Rule 3103, Interpretation and Policy .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 July 1, 2022 (the implementation date of Exchange MQP); and (2) individuals who were participating in the Financial Services Affiliate Waiver Program (''FSAWP'') under Exchange Rule 3100, Interpretation and Policy .09, Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member, immediately prior to July 1, 2022 (collectively, ''Look-Back Individuals'').[8]

In the FINRA Rule Change, FINRA noted that in Regulatory Notice 21–41 (November 17, 2021), it announced that Look-Back Individuals who wanted to take part in FINRA's 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.[9]

In the FINRA Rule Change, FINRA further noted that 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 noted that it also 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.[10] 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 recently amended its rules to provide Look-Back Individuals a second opportunity to elect to participate in the MQP (the ''Second Enrollment Period''). For similar reasons, the Exchange is also proposing to amend its rules to provide Look-Back Individuals with a Second Enrollment Period.[11] The Exchange's Second Enrollment Period will be between the effective date of this proposed rule change 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.[12]

The Exchange believes that Look-Back Individuals generally have greater awareness of the MQP, including due to news coverage, since the program's launch.[13] The Exchange believes that greater public awareness of the MQP, coupled with a four-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.[14] The Exchange 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

[6] *See* Securities Exchange Act Release No. 95190 (June 30, 2022), 87 FR 40560 (July 7, 2022) (SR–PEARL–2022–25) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 3100, Registration Requirements, Exchange Rule 3103, Continuing Education Requirements, and Exchange Rule 3104, Electronic Filing Requirements for Uniform Forms).

[7] 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).

[8] 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. The Exchange stopped accepting new participants for the FSAWP beginning on July 1, 2022; however, individuals who were already participating in the FSAWP prior to that date had the option of continuing in the FSAWP.

[9] Look-Back Individuals were able to notify FINRA of their election to participate in the MQP through their FinPro accounts.

[10] According to FINRA, 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.

[11] 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 July 1, 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.

[12] 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.

[13] *See, e.g.,* Joanne Cleaver, FINRA Sets Big Change in Motion with New Options for Licensing Grace Period, InvestmentNews (June 23, 2022), *https://www.investmentnews.com/finra-sets-big-change-in-motion-with-new-option-forlicensing-grace-period-222942.*

[14] In the FINRA Rule Change, FINRA noted that it 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 further noted that it will inform Look-Back Individuals if it determines to provide an alternative enrollment method.

examination or having to obtain an examination waiver.[15]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] 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)[18] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange's rule proposal is intended to harmonize the Exchange's supervision rules, specifically with respect to the continuing education requirements with those of FINRA, on which they are based. Consequently, the proposed change will conform the Exchange's rules to changes made to corresponding FINRA rules, thus promoting application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to its regulatory services agreement with the Exchange.

The Exchange 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 Members 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 Members, providing investors with the advantage of greater experience among the Members working in the industry. The Exchange 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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change, which harmonizes its rules with the recent rule change adopted by FINRA, will reduce the regulatory burden placed on market participants engaged in trading activities across different markets. The Exchange believes that the harmonization of the CE program requirements across the various markets will reduce burdens on competition by removing impediments to participation in the national market system and promoting competition among participants across the multiple national securities exchanges. Additionally, and as stated above, FINRA has recently submitted a filing to provide eligible individuals another opportunity to elect to participate in the Maintaining Qualifications Program in the same manner.[19]

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

MIAX Pearl has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21] Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[22]

A proposed rule change filed under Rule 19b–4(f)(6)[23] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[24] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. MIAX Pearl has indicated that the immediate operation of the proposed rule change is appropriate because it would allow the Exchange to implement the proposed changes to its continuing education rules without delay, thereby eliminating the possibility of a significant regulatory gap between the FINRA rules and the Exchange rules, providing more uniform standards across the securities industry, and helping to avoid confusion for Exchange members that are also FINRA members. MIAX Pearl also noted that FINRA plans to conduct additional public outreach efforts to promote awareness of the MQP and the availability of the Second Enrollment Period among Look-Back Individuals. Therefore, MIAX Pearl indicated that the immediate operation of the proposed rule change is also appropriate because it would help to further notify Look-Back Individuals of their options and provide additional time for them to consider whether they wish to participate in the MQP before the December 31, 2023 deadline. 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.[25]

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

[15] For example, if a Look-Back Individual terminated a registration category on July 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 July 1, 2020, and ending no later than July 1, 2025. If the individuals does not reregister with a member firm by July 1, 2025, the individual would need to requalify by examination or obtain an examination waiver in order to reregister after that date.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

[19] *See supra* note 5.

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[23] 17 CFR 240.19b-4(f)(6).

[24] 17 CFR 240.19b-4(f)(6)(iii).

[25] 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).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PEARL–2023–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–PEARL–2023–49. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–PEARL–2023–49 and should be submitted on or before October 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21350 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98504; File No. SR–MRX–2023–17]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Pricing Schedule at Options 7 To Specify Pricing Related to Unrelated Market or Marketable Interest

September 25, 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 September 14, 2023, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Pricing Schedule at Options 7 to specify pricing related to unrelated market or marketable interest.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Exchange's Pricing Schedule at Options 7 to specify pricing related to unrelated market or marketable interest. Specifically, the Exchange proposes to specify the current manner in which the Exchange assesses fees and rebates with respect to unrelated market or marketable interest received prior to the commencement of an auction in the Facilitation Mechanism (''FAC''),[3] Solicited Order Mechanism (''SOL''),[4] and Price Improvement Mechanism (''PIM''),[5] and during such auctions. In addition, the Exchange also proposes a number of non-substantive amendments to Options 7 that will bring more clarity to the Exchange's Pricing Schedule. Each change is discussed below.

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Facilitation Mechanism is a process by which an Electronic Access Member can execute a transaction wherein the Electronic Access Member seeks to facilitate a block-size order it represents as agent, and/or a transaction wherein the Electronic Access Member solicited interest to execute against a block-size order it represents as agent. Electronic Access Members must be willing to execute the entire size of orders entered into the Facilitation Mechanism. *See* Options 3, Section 11(b). Additionally, Electronic Access Members may use the Facilitation Mechanism to execute block-size Complex Orders at a net price. *See* Options 3, Section 11(c) for the rules governing complex Facilitation Mechanism.

[4] The Solicited Order Mechanism is a process by which an Electronic Access Member can attempt to execute orders of 500 or more contracts it represents as agent (the ''Agency Order'') against contra orders that it solicited. Each order entered into the Solicited Order Mechanism shall be designated as all-or-none. *See* Options 3, Section 11(d). Additionally, Electronic Access Members may use the Solicited Order Mechanism to execute Complex Orders at a net price. *See* Options 3, Section 11(e) for the rules governing complex Solicited Order Mechanism.

[5] The Price Improvement Mechanism is a process by which an Electronic Access Member can provide price improvement opportunities for a transaction wherein the Electronic Access Member seeks to facilitate an order it represents as agent, and/or a transaction wherein the Electronic Access Member solicited interest to execute against an order it represents as agent. *See* Options 3, Section 13. Additionally, Electronic Access Members may use the Price Improvement Mechanism to execute Complex Orders at a net price. *See* Options 3, Section 13(e) for the rules governing complex Price Improvement Mechanism.

Unrelated Interest

As a general rule, today, if an order executed in FAC (''FAC Order''), SOL (''SOL Order''), or PIM (''PIM Order'') executes against unrelated market or marketable interest received during an auction, the Exchange would assess the applicable Crossing Order [6] pricing in Section 3, Table 2 and Section 3.A of its Pricing Schedule. If the FAC, SOL, or PIM Order executes against unrelated market or marketable interest received prior to an auction, the Exchange would assess applicable order book pricing in its Pricing Schedule. As discussed below, the Exchange applies these concepts to unrelated market or marketable interest in line with Member expectations and to treat similarly situated Members in a uniform manner. The Exchange notes that it currently denotes in the Pricing Schedule that it would apply separate Crossing Order pricing for any contra-side interest submitted after the commencement of an auction in FAC, SOL, or PIM (which includes unrelated market and marketable interest received during the auction) by grouping such interest as Responses to Crossing Orders.[7] The Exchange further notes that today, it specifies throughout Options 7 how it will price Responses to Crossing Orders.[8] While the Exchange has delineated the treatment of unrelated market and marketable interest received by the Exchange during a FAC, SOL, and PIM auction in its Pricing Schedule, the Exchange believes that further clarity would be beneficial to Members as to how the Exchange currently assesses pricing for such interest received prior to the commencement of the auction. As such, the Exchange proposes to memorialize these concepts in its Pricing Schedule by adding new paragraph (d) to Options 7, Section 1, titled ''Unrelated Market or Marketable Interest Pricing.'' Proposed paragraph (d) would state that the following concepts would apply to FAC, SOL, and PIM Orders.

Specifically, under proposed new paragraph (d), when the FAC Order or SOL Order executes against unrelated market or marketable interest received during an auction, the FAC Order or SOL Order will be assessed the applicable Fee for Crossing Orders in Options 7, Section 3, Table 2 (for regular FAC Orders and SOL Orders) [9] and applicable Complex Order fees in Options 7, Section 4 (for complex FAC Orders and SOL Orders).[10] The unrelated market or marketable interest received during an auction will be assessed the applicable fees for Responses to Crossing Order in Options 7, Section 3, Table 2 (for regular interest) [11] and applicable Complex Order fees in Options 7, Section 4 (for complex interest).[12]

When the order executed in PIM (''PIM Order'') executes against unrelated market or marketable interest received during an auction, the PIM Order will be assessed the applicable PIM Originating Order fees [13] or Break-up Rebates [14] in Options 7, Section 3.A (for regular and complex PIM Orders). The unrelated market or marketable interest received during an auction will be assessed the applicable fees for Responses to PIM Orders in Options 7, Section 3.A (for regular and complex interest).[15]

In contrast, today, when the FAC Order, SOL Order, or PIM Order executes against unrelated market or marketable interest received prior to the commencement of an auction, the FAC Order, SOL Order, or PIM Order would be subject to the applicable taker pricing in Options 7, Section 3, Table 1 (for regular FAC Orders, SOL Orders, and PIM Orders) [16] and the applicable Complex Order fees in Options 7, Section 4 (for complex FAC Orders, SOL Orders, and PIM Orders).[17] The unrelated market or marketable interest received prior to the commencement of an auction will be assessed the applicable maker pricing in Options 7, Section 3, Table 1 (for regular interest),[18] and the applicable Complex

[6] A ''Crossing Order'' is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (''PIM'') or submitted as a Qualified Contingent Cross order. For purposes of this Pricing Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

[7] ''Responses to Crossing Order'' is any contra-side interest (*i.e.,* orders & quotes) submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or Price Improvement Mechanism. Contra-side interest in this context therefore includes both contra-side interest submitted specifically in response to an auction notification, and unrelated market and marketable contra-side interest submitted to the order book during the auction.

[8] *See* Section 3, Table 2 (setting forth regular order fees for Responses to Crossing Orders except PIM Orders); Section 3.A (setting forth regular and complex order fees for Responses to PIM Orders) and Section 4 (setting forth complex order fees for Responses to Crossing Orders except PIM Orders).

[9] Thus the regular FAC and SOL Order would be assessed the current regular Penny and Non-Penny Symbol fee for Crossing Orders as follows: $0.20 per contract for a Market Maker, Non-Nasdaq MRX Market Maker (FarMM), Firm Proprietary/Broker-Dealer, and Professional Customer, and $0.00 per contract for a Priority Customer.

[10] Thus the complex FAC and SOL Order would be assessed the current complex Penny Symbol fee of $0.35 per contract and complex Non-Penny Symbol fee of $0.85 per contract for all market participants except Priority Customers, which do not get assessed a complex fee.

[11] Thus, unrelated interest would be assessed the current regular Penny Symbol fee for Responses to Crossing Orders of $0.50 per contract for all market participants. Further, they would be assessed the current regular Non-Penny Symbol fee for Responses to Crossing Orders of $1.10 per contract for all market participants.

[12] As stated in Options 7, Section 4, the complex order fees apply to responses to complex FAC and SOL Orders, except complex PIM Orders, which are subject to separate PIM response fees in Options 7, Section 3.A. Thus, unrelated interest would be assessed the current complex Penny Symbol fee of $0.35 per contract and complex Non-Penny Symbol fee of $0.85 per contract for all market participants except Priority Customers, which do not get assessed a complex fee.

[13] Thus both regular and complex PIM Orders would be assessed the current Penny and Non-Penny Symbol PIM pricing as follows: $0.20 PIM originating order fee for all market participants except Priority Customers, who do not get assessed this fee, and $0.02 PIM contra-side order fee for all market participants.

[14] Break-up Rebates only apply to regular PIM Orders of 500 or fewer contracts and to complex PIM Orders where the largest leg is 500 or fewer contracts, and are provided for an originating Priority Customer PIM Order that executes with any response (order or quote) other than the PIM contra-side order. The Penny Symbol Break-up Rebate is currently $0.25 per contract for a Priority Customer originating PIM Order. The Non-Penny Symbol Break-up Rebate is currently $0.60 per contract for a Priority Customer originating PIM Order.

[15] Thus, unrelated interest would be assessed the current regular and complex Penny Symbol fee for Responses to PIM Orders of $0.50 per contract for all market participants. Further, they would be assessed the current regular and complex Non-Penny Symbol fee for Responses to PIM Orders of $1.10 per contract for all market participants.

[16] Thus the regular FAC, SOL, and PIM Order would be assessed the current regular Penny Symbol Taker Fees as follows: $0.50 per contract for a Market Maker, Non-Nasdaq MRX Market Maker (FarMM), Firm Proprietary/Broker-Dealer, and Professional Customer (regardless of tier achieved), $0.15 per contract for a Priority Customer (Tiers 1–3), and $0.10 per contract for a Priority Customer (Tier 4). Further, they would be assessed the following regular Non-Penny Taker Fees: $1.10 per contract for a Market Maker, Non-Nasdaq MRX Market Maker (FarMM), Firm Proprietary/Broker-Dealer, and Professional Customer (regardless of tier achieved), $0.35 per contract for a Priority Customer (Tier 1), $0.25 per contract for a Priority Customer (Tier 2), $0.15 per contract for a Priority Customer (Tier 3), and $0.10 per contract for a Priority Customer (Tier 4).

[17] Thus the complex FAC, SOL, and PIM Order would be assessed the current complex Penny Symbol fee of $0.35 per contract and complex Non-Penny Symbol fee of $0.85 per contract for all market participants except Priority Customers, which do not get assessed a complex fee.

[18] Thus, unrelated interest would be assessed the current regular Penny Symbol Maker Fees/Rebates as follows: $0.10 per contract fee for a Market Maker (Tier 1), $0.00 per contract fee for a Market Maker (Tier 2), $0.05 per contract rebate for a Market Maker (Tier 3), $0.10 per contract rebate for a Market Maker (Tier 4), $0.47 per contract fee for a Non-Nasdaq MRX Market Maker (FarMM), Firm Proprietary/Broker-Dealer, and Professional Customer (regardless of tier achieved), and $0.00 per contract fee for a Priority Customer (regardless of tier achieved). Further, they would be assessed the following regular Non-Penny Maker Fees: $0.35 per contract for a Market Maker (Tier 1), $0.20 per contract for a Market Maker (Tier 2), $0.15 per contract for a Market Maker (Tier 3), $0.10 per contract for a Market Maker (Tier 4), $0.90 per

Order fees in Options 7, Section 4 (for complex interest).[19]

Unrelated market or marketable interest resting on the Exchange's order book, whether received prior to the commencement of a FAC, SOL, or PIM auction or during such auction, would be allocated in accordance with Options 3, Section 11(b)(4) and (c)(7) (for regular and complex FAC), Section 11(d)(3) and (e)(4) (for regular and complex SOL), and Section 13(d) and (e)(5) (for regular and complex PIM).

The Exchange applies order book pricing in accordance with Options 7, Sections 3 and 4 to interest received prior to a FAC, SOL, and PIM auction that subsequently trades with a FAC, SOL, or PIM Order (which is considered unrelated market or marketable interest for purposes of the auction) because the Exchange seeks to treat the Member who submitted such interest in a similar manner as any other Member who submits interest to the order book. The Member that submitted such interest would not have been aware at the time that a FAC, SOL, or PIM auction was in progress, and therefore would not have expected to be assessed separate Crossing Order pricing.[20] In such instances, for regular interest, the unrelated market or marketable interest that posted to the order book prior to the commencement of the auction would be treated as posting liquidity to the order book (makers of liquidity) and assessed maker pricing in accordance with Options 7, Section 3, Table 1. The FAC, SOL, and PIM Order that trades against the unrelated interest would be considered as removing liquidity from the order book (takers of liquidity) and assessed taker pricing in accordance with Options 7, Section 3, Table 1. This is consistent with taker pricing assessed to any Member that removes liquidity from the order book. For complex interest, the Exchange currently assesses uniform complex order fees for similarly situated market participants as set forth in Options 7, Section 4, regardless of maker/taker. As such, both the unrelated market or marketable interest that posted to the complex order book prior to the commencement of the complex FAC/SOL/PIM auction and the complex FAC/SOL/PIM Order would be assessed the applicable complex order fee, consistent with any complex order submitted to the complex order book.

In contrast, the Exchange applies Crossing Order pricing in Options 7, Sections 3 and 4 to the unrelated market or marketable interest when the interest arrived during a FAC, SOL, and PIM auction. Members submitting interest to the order book during one of these auctions are aware that they may be allocated in the auction.[21] The Exchange assesses the applicable response fee in Options 7, Section 3 and Section 4 to Members submitting such interest in the same manner that responders to the FAC, SOL, and PIM auction are assessed fees for their auction responses. In other words, the unrelated market or marketable interest that received an allocation within the FAC, SOL, or PIM auction would be uniformly subject to the same fees as those Members that submitted auction responses and were allocated.

The Exchange's pricing models for the regular/complex order book and FAC/SOL/PIM auctions each seek to attract liquidity to the Exchange and reward Members differently for the different types of order flow. To this end, the Exchange's pricing considers the manner in which orders interact with the FAC/SOL/PIM auction based on the timing of when the order entered which order book. The Exchange's pricing is consistent with its current practice of assigning the applicable pricing for auctions versus order book pricing depending on how and when the order was submitted to the Exchange.

Technical Amendments

The Exchange proposes a few technical, non-substantive amendments throughout Options 7. First, the Exchange proposes to title paragraph (b) in Options 7, Section 1 as ''Fee Disputes'' and paragraph (c) as ''Definitions'' to more clearly identify the applicable rules within the Pricing Schedule. The Exchange also proposes to fix a typo in note 5 of Options 7, Section 3, Table 1.

The Exchange further proposes to amend Table 2 of Options 7, Section 3 by specifying that regular Responses to PIM Orders are subject to separate pricing in Part A of Section 3.[22] As discussed above, PIM pricing is set forth separately in Options 7, Section 3.A. However, Crossing Orders and Responses to Crossing Orders are defined to cover PIM Orders and Responses to PIM Orders.[23] The Exchange therefore believes that the proposed change will avoid potential confusion by market participants and investors in how Responses to PIM Orders are assessed. The Exchange notes that it already specifies in note 1 of Options 7, Section 3, Table 2 that regular PIM Orders are subject to separate pricing in Part A of Section 3. Lastly, the Exchange proposes to fix a punctuation error in note 1 of Options 7, Section 3, Table 2.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[24] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[25] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Further the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Unrelated Interest

The Exchange believes that its proposal to specify how the Exchange currently prices unrelated market or marketable interest received is consistent with the Act because memorializing these concepts in new paragraph (d) of Options 7, Section 1 will promote greater clarity and transparency in the rules and make the Pricing Schedule easier to navigate for market participants. As discussed above, the Exchange already denotes how unrelated market or marketable interest received during a FAC, SOL, and PIM auction is priced by grouping such interest as Responses to Crossing Orders and Responses to PIM Orders today. How the Exchange prices unrelated market or marketable interest received prior to a FAC, SOL, and PIM auction, however, is not currently

contract for a Non-Nasdaq MRX Market Maker (FarMM), Firm Proprietary/Broker-Dealer, and Professional Customer (regardless of tier achieved), and $0.00 per contract for a Priority Customer (regardless of tier achieved).

[19] Thus, unrelated interest would be assessed the current complex Penny Symbol fee of $0.35 per contract and complex Non-Penny Symbol fee of $0.85 per contract for all market participants except Priority Customers, which do not get assessed a complex fee.

[20] Members become aware of ongoing FAC, SOL, and PIM auctions as the Exchange disseminates an auction notification in the form of a ''broadcast message'' when the Exchange receives a FAC, SOL, and PIM Order for auction processing. The broadcast message is sent by the Exchange to all Members and includes the series, price, side, and size of the Agency Order. *See* Options 3, Sections 11(b)(2), 11(d)(2), and 13(c).

[21] *See supra* note 20.

[22] *See* proposed note 2 of Options 7, Section 3, Table 2.

[23] *See supra* notes 6 and 7.

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(4) and (5).

detailed in the Exchange's Pricing Schedule. As such, the Exchange believes that by consolidating and describing these concepts in one place in the Pricing Schedule, Members can more easily locate the related rules and avoid any potential investor confusion.

As discussed above, the Exchange will memorialize that it will assess book pricing for unrelated market or marketable interest received prior to the commencement of a FAC, SOL, or PIM auction by stating that such interest would be assessed the applicable maker pricing (for regular interest) and applicable Complex Order fees (for complex interest).[26] The FAC, SOL and PIM Order that such interest executes against would be assessed applicable taker pricing (for regular FAC, SOL, and PIM Orders) and applicable Complex Order fees (for complex FAC, SOL, and PIM Orders).[27] The Exchange applies order book pricing in this scenario because at the time the unrelated market or marketable interest was submitted and posted to the order book, Members would not have been aware of an ongoing FAC/SOL/PIM auction and therefore would not expect to be subject to Responses to Crossing Order fees in Section 3, Table 2 and Responses to PIM Order fees in Section 3.A.[28] In contrast, the Exchange applies Responses to Crossing Order fees in Section 3, Table 2 and Responses to PIM Order fees in Section 3.A [29] to the unrelated market or marketable interest when it arrives during the FAC/SOL/PIM auction because Members submitting interest to the order book at that time would be aware that they may be allocated in the FAC/SOL/PIM auction.[30] Additionally, the Exchange's pricing models for the regular/complex order book and FAC/SOL/PIM auctions each seek to attract liquidity to the Exchange and reward Members differently for different types of order flow. To this end, the Exchange's pricing considers the manner in which interest interacts with the FAC/SOL/PIM auction based on the timing of when such interest entered which order book. The Exchange's pricing is consistent with its current practice of assigning the applicable pricing for auctions versus order book pricing depending on how and when the order was submitted to the Exchange.

Further, the Exchange's proposal to memorialize current practice that unrelated market or marketable interest received prior to the commencement of a FAC/SOL/PIM auction would be assessed the applicable maker pricing (for regular interest) and applicable Complex Order fees (for complex interest) [31] is reasonable, equitable, and not unfairly discriminatory because all Members who submitted such interest that posted to the order book prior to the commencement of the auction (and executes against the FAC/SOL/PIM Order) would be uniformly assessed the same pricing as any other Member who posted liquidity on the order book. Further, all Members who submitted a FAC/SOL/PIM Order that executed against such interest would be uniformly assessed the same pricing as any other Member who removed liquidity from the order book.

Similarly, the Exchange believes that its proposal to specify current practice that unrelated market or marketable interest received during a FAC/SOL/PIM auction would be assessed the applicable Crossing Order pricing as described above is reasonable, equitable, and not unfairly discriminatory because all Members who submitted such interest would be uniformly assessed the same pricing as any other Member who submitted responses into the FAC/SOL/PIM auction.

Technical Amendments

The Exchange believes that adding titles to paragraphs (b) and (c) of Options 7, Section 1 is consistent with the Act because they will promote clarity so that market participants can more easily locate the relevant rules in the Pricing Schedule. The Exchange likewise believes that fixing the typo in note 5 of Options 7, Section 3, Table 1 and punctuation error in note 1 of Options 7, Section 3, Table 2 will promote clarity in the rules and avoid any potential investor confusion. Similarly, the Exchange believes that specifying in proposed note 2 of Options 7, Section 3, Table 2 that regular Responses to PIM Orders are subject to separate pricing in Part A of Section 3 will avoid any potential investor confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that its proposal would impose an undue burden on intra-market competition. The pricing of unrelated interest in the manner described above uniformly treats similarly situated market participants. Specifically, all Members who submitted unrelated market or marketable interest that posted to the order book prior to the commencement of the auction (and executes against the FAC/SOL/PIM Order) would be uniformly assessed the same pricing as any other Member who posted liquidity on the order book. All Members who submitted a FAC/SOL/PIM Order that executed against such interest would be uniformly assessed the same pricing as any other Member who removed liquidity from the order book. Additionally, all Members who submitted unrelated market or marketable interest to the order book during the FAC/SOL/PIM auction (which ends up participating and executing against the auction order) would be uniformly assessed the same pricing as any other Member who submitted responses into the FAC/SOL/PIM auction.

In terms of inter-market competition, the Exchange continues to believe that the way that it prices unrelated market or marketable interest remains competitive with other options markets given that the Exchange's current pricing models for the regular and complex order books and for FAC/SOL/PIM auctions are all designed to attract order flow to the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[26] As discussed above, the Exchange currently assesses uniform complex fees for similarly situated market participants, regardless of maker/taker. *See* Options 7, Section 4.

[27] *Id.*

[28] *See supra* note 20.

[29] *See supra* note 12 for discussion of complex FAC/SOL/PIM response fees.

[30] *See supra* note 20.

[31] As discussed above, the Exchange currently assesses uniform complex fees for similarly situated market participants, regardless of maker/taker. *See* Options 7, Section 4.

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.[32] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MRX–2023–17 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–MRX–2023–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–MRX–2023–17 and should be submitted on or before October 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21343 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

[32] 15 U.S.C. 78s(b)(3)(A)(ii).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–423, OMB Control No. 3235–0472]

Submission for OMB Review; Comment Request; Extension: Rule 15c1–6

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the existing collection of information provided for in Rule 15c1–6 (17 CFR 240.15c1–6) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15c1–6 states that any broker-dealer trying to sell to or buy from a customer a security in a primary or secondary distribution in which the broker-dealer is participating or is otherwise financially interested must give the customer written notification of the broker-dealer's participation or interest at or before completion of the transaction. The Commission estimates that approximately 350 respondents will collect information annually under Rule 15c1–6 and that each respondent will spend approximately 10 hours annually complying with the collection of information requirement for a total burden of approximately 3,500 hours per year in the aggregate.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by October 30, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: September 26, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21428 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98516; File No. SR–MIAX–2023–34]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Provide Eligible Members Another Opportunity To Elect To Participate in the Maintaining Qualifications Program

September 25, 2023.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 18, 2023, Miami International Securities Exchange LLC (''MIAX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Interpretation and Policy .01 to Exchange Rule 1903, Continuing Education, to provide eligible Members [3] another opportunity to elect to participate in the Maintaining Qualifications Program (''MQP'').

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/miax-options/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Interpretation and Policy .01 to Exchange Rule 1903, Continuing Education, to provide eligible Members another opportunity to elect to participate in the Maintaining Qualifications Program (''MQP'').

The continuing education program for registered persons of Members (''CE Program'') currently requires registered persons to complete continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element is administered by the Financial Industry Regulatory Authority, Inc. (''FINRA''). FINRA, on behalf of the Exchange, focuses on regulatory requirements and industry standards, while the Firm Element is provided by each firm and focuses on securities products, services and strategies the firm offers, firm policies and industry trends.

The CE Program is codified under the rules of the self-regulatory organizations. The CE Program for registered persons of Exchange Members is codified under Exchange Rule 1903, Continuing Education.[4] This proposed rule change is based on a filing recently submitted by FINRA and is intended to harmonize the Exchange's continuing education rules with those of FINRA so as to promote uniform standards across the securities industry.[5] The proposed rule change is discussed in detail below.

On June 10, 2022, the Exchange amended Exchange Rule 1900, Registration Requirements, and Exchange Rule 1903, Continuing Education, 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.[6] By that time, however, the First Enrollment Period, defined below, had expired, leaving many eligible individuals from being able to participate in the MQP. This proposed rule change will provide those eligible individuals a second opportunity to elect to participate in the MQP to maintain their qualification.

Prior to the MQP, individuals whose registrations as representative 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.[7] Specifically, the MQP 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 Exchange Rule 1903, Interpretation and Policy .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 July 1, 2022 (the implementation date of Exchange MQP); and (2) individuals who were participating in the Financial Services Affiliate Waiver Program (''FSAWP'') under Exchange Rule 1900, Interpretation and Policy .09, Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member, immediately prior to July 1, 2022 (collectively, ''Look-Back Individuals'').[8]

In the FINRA Rule Change, FINRA noted that in Regulatory Notice 21–41 (November 17, 2021), it announced that Look-Back Individuals who wanted to take part in FINRA's 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.[9]

In the FINRA Rule Change, FINRA further noted that 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 noted that it also received anecdotal information that a number of these individuals may not have learned

[3] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] *See also* Exchange Rule 1903, Interpretation and Policy .06, All Registered Persons Must Satisfy the Regulatory Element of Continuing Education.

[5] *See* Securities Exchange Act Release No. 97184 (Mar. 22, 2023), 88 FR 18359 (Mar. 28, 2023) (SR–FINRA–2023–005) (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) (''FINRA Rule Change'').

[6] *See* Securities Exchange Act Release No. 95140 (June 22, 2022), 87 FR 38438 (June 28, 2022) (SR–MIAX–2022–23) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 1900, Registration Requirements, Exchange Rule 1903, Continuing Education Requirements, and Exchange Rule 1904, Electronic Filing Requirements for Uniform Forms).

[7] 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).

[8] 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. The Exchange stopped accepting new participants for the FSAWP beginning on July 1, 2022; however, individuals who were already participating in the FSAWP prior to that date had the option of continuing in the FSAWP.

[9] Look-Back Individuals were able to notify FINRA of their election to participate in the MQP through their FinPro accounts.

of the MQP, or the First Enrollment Period, in a timely manner, or at all, due to communication and operational issues.[10] 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 recently amended its rules to provide Look-Back Individuals a second opportunity to elect to participate in the MQP (the ''Second Enrollment Period''). For similar reasons, the Exchange is also proposing to amend its rules to provide Look-Back Individuals with a Second Enrollment Period.[11] The Exchange's Second Enrollment Period will be between the effective date of this proposed rule change 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.[12]

The Exchange believes that Look-Back Individuals generally have greater awareness of the MQP, including due to news coverage, since the program's launch.[13] The Exchange believes that greater public awareness of the MQP, coupled with a four-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.[14] The Exchange 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.[15]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] 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)[18] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange's rule proposal is intended to harmonize the Exchange's supervision rules, specifically with respect to the continuing education requirements with those of FINRA, on which they are based. Consequently, the proposed change will conform the Exchange's rules to changes made to corresponding FINRA rules, thus promoting application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to its regulatory services agreement with the Exchange.

The Exchange 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 Members 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 Members, providing investors with the advantage of greater experience among the Members working in the industry. The Exchange 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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change, which harmonizes its rules with the recent rule change adopted by FINRA, will reduce the regulatory burden placed on market participants engaged in trading activities across different markets. The Exchange believes that the harmonization of the CE program requirements across the various markets will reduce burdens on competition by removing impediments to participation in the national market system and promoting competition among participants across the multiple national securities exchanges. Additionally, and as stated above, FINRA has recently submitted a filing to provide eligible individuals another opportunity to elect to participate in the

[10] According to FINRA, 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.

[11] 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 July 1, 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.

[12] 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.

[13] *See, e.g.,* Joanne Cleaver, FINRA Sets Big Change in Motion with New Options for Licensing Grace Period, InvestmentNews (June 23, 2022), *https://www.investmentnews.com/finra-sets-big-change-in-motion-with-new-option-forlicensing-grace-period-222942*.

[14] In the FINRA Rule Change, FINRA noted that it 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 further noted that it will inform Look-Back Individuals if it determines to provide an alternative enrollment method.

[15] For example, if a Look-Back Individual terminated a registration category on July 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 July 1, 2020, and ending no later than July 1, 2025. If the individuals does not reregister with a member firm by July 1, 2025, the individual would need to requalify by examination or obtain an examination waiver in order to reregister after that date.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

Maintaining Qualifications Program in the same manner.[19]

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

MIAX has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6) thereunder.[21] Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[22]

A proposed rule change filed under Rule 19b–4(f)(6) [23] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[24] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. MIAX has indicated that the immediate operation of the proposed rule change is appropriate because it would allow the Exchange to implement the proposed changes to its continuing education rules without delay, thereby eliminating the possibility of a significant regulatory gap between the FINRA rules and the Exchange rules, providing more uniform standards across the securities industry, and helping to avoid confusion for Exchange members that are also FINRA members. MIAX also noted that FINRA plans to conduct additional public outreach efforts to promote awareness of the MQP and the availability of the Second Enrollment Period among Look-Back Individuals. Therefore, MIAX indicated that the immediate operation of the proposed rule change is also appropriate because it would help to further notify Look-Back Individuals of their options and provide additional time for them to consider whether they wish to participate in the MQP before the December 31, 2023 deadline. 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.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MIAX–2023–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–MIAX–2023–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–MIAX–2023–34 and should be submitted on or before October 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21351 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

[19] *See supra* note 5.

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] 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).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98509; File No. SR–CBOE–2023–052]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Certain Rules Related to Stock-Option Orders

September 25, 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 September 15, 2023, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend certain Rules related to stock-option orders. 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), 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 update certain of its Rules regarding the definition and execution of stock-option orders. Rule 1.1 defines a ''stock-option order'' as an order to buy or sell a stated number of units of an underlying or a related security coupled with either (a) the purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of the underlying or related security or the number of units of the underlying security necessary to create a delta neutral position or (b) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price and expiration date, and each representing the same number of units of stock as, and on the opposite side of the market from, the underlying or related security portion of the order. It also provides that for purposes of electronic trading, the term stock-option order has the meaning set forth in Rule 5.33. Therefore, this definition of stock-option order in Rule 1.1 applies to open outcry trading on the Exchange.

Rule 5.33(b)(5) currently defines a ''stock-option order'' for purposes of electronic trading as the purchase or sale of a stated number of units of an underlying stock or a security convertible into the underlying stock (''convertible security'') coupled with the purchase or sale of an option contract(s) on the opposite side of the market representing either (a) the same number of units of the underlying stock or convertible security or (b) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option leg(s) to the total number of units of the underlying stock or convertible security in the stock leg.[5]

Rule 5.33(f)(2)(B) and Rule 5.85(b)(3) currently describe certain restrictions on electronic and open outcry, respectively, executions of stock-option orders. Current Rule 5.33(f)(2)(B) provides that stock-option orders that execute electronically are subject to the following:

- For a stock-option order with one option leg, the option leg may not trade at a price worse than the individual component price on the Simple Book or at the same price as a Priority Customer Order on the Simple Book.
- For a stock-option order with more than one option leg, the option legs must trade at prices pursuant Rule 5.33(f)(2)(A).[6]
- A stock-option order may only execute if the stock leg is executable at the price(s) necessary to achieve the desired net price.[7]
- The System executes the buy (sell) stock leg of a stock-option order pursuant to Rule 5.33 up to a buffer amount above (below) the NBO (NBB) for the stock leg.[8]

Rule 5.85(b)(3) provides that stock-option orders and security future-option orders have priority over bids (offers) of in-crowd market participants but not over Priority Customer bids (offers) in the Book.

The Exchange previously amended its rules to permit complex orders of all ratios to be executed on the Exchange, both electronically and in open outcry, subject to certain execution restrictions.[9] Rule 1.1 currently defines ''complex order'' as an order involving the concurrent execution of two or more different series in the same underlying security or index (the ''legs'' or ''components'' of the complex order), for the same account, occurring at or near the same time and for the purpose of executing a particular investment strategy with no more than the applicable number of legs (which number the Exchange determines on a class-by-class basis). The Exchange determines in which classes complex orders are eligible for processing. The Exchange determines on a class-by-class basis whether complex orders with ratios less than one-to-three (.333) or greater than three-to-one (3.00) (except for Index Combo orders) are eligible for electronic processing. Unless the context otherwise requires, the term complex order includes Index Combo orders, stock-option orders and security future-option orders.[10]

[4] 17 CFR 240.19b–4(f)(6).

[5] Only those stock-option orders in the classes designated by the Exchange with no more than the applicable number of legs are eligible for processing. Stock-option orders execute in the same manner as other complex orders, except as otherwise specified in Rule 5.33.

[6] Rule 5.33(f)(2)(A) states the System does not execute a complex order pursuant to Rule 5.33 at a net price: (i) that would cause any component of the complex strategy to be executed at a price of zero; (ii) that would cause any component of the complex strategy to be executed at a price worse than the individual component prices on the Simple Book; (iii) worse than the price that would be available if the complex order Legged into the Simple Book; or (iv) worse than the SBBO or equal to the SBBO when there is a Priority Customer order on any leg comprising the SBBO and: (a) if a complex order has a ratio equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00), or is an Index Combo order, at least one component of the complex order must execute at a price that improves the BBO for that component by at least one minimum increment; or (b) if the complex order has a ratio less than one-to-three (.333) or greater than three-to-one (3.00), the component(s) of the complex order for the leg(s) with a Priority Customer order at the BBO must execute at a price that improves the price of that Priority Customer order(s) on the Simple Book by at least one minimum increment, except AON complex orders may only execute at prices better than the SBBO.

[7] To facilitate the execution of the stock leg and options leg(s) of an executable stock-option order at valid increments pursuant to Rule 5.33(f)(1)(B), the legs may trade outside of their expected notional trade value by a specified amount (which the Exchange determines), unless the order has a capacity of ''C''.

[8] *See* Rule 5.33(f)(2)(B)(i)–(iii). The rule further provides that the execution price of the buy (sell) stock leg of a QCC with Stock Order may be any price (including outside the NBBO for the stock leg), except the price must be permitted by Regulation SHO and the Limit Up-Limit Down Plan. Rule 5.33(f)(2)(B)(iv).

[9] *See* Securities Exchange Release No. 94204 (February 9, 2022), 87 FR 8625 (February 15, 2022) (SR–CBOE–2021–046).

[10] The proposed definition of conforming complex order provides that, for the purpose of applying these ratios to complex orders comprised of legs for both mini-options and standard options, ten mini-option contracts represent one standard option contract.

The Exchange first proposes to adopt definitions of ''conforming'' and ''nonconforming'' complex orders in Rule 1.1. The Exchange notes these proposed definitions are consistent with definitions used by another options exchange.[11] Specifically, the Exchange proposes to define a ''conforming complex order'' as (a) a complex order with a ratio on the options legs greater than or equal to one-to-three (.333) or less than or equal to three-to-one (3.00), (b) an Index Combo order,[12] and (c) a stock-option order with a ratio less than or equal to eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option leg(s) to the total number of units of the underlying stock or convertible security in the stock leg. The Exchange proposes to define a ''nonconforming complex order'' as (a) a complex order with a ratio on the options legs less than one-to-three (.333) or greater than three-to-one (3.00) (except for Index Combo orders) and (b) a stock-option order with a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option leg(s) to the total number of units of the underlying stock or convertible security in the stock leg. The proposed definitions of conforming and nonconforming complex orders each provide that, for the purpose of applying these ratios to complex orders comprised of legs for both mini-options and standard options, ten mini-option contracts represent one standard option contract. The proposed definitions of conforming and nonconforming complex orders also provide that, for or the purpose of applying these ratios to complex orders comprised of legs for both micro-options and standard options, 100 micro-option contracts represent one standard option contract. These proposed ratio applications are consistent with the current definition of complex order and stock-option order.

The inclusion of an Index Combo as a conforming complex order is consistent with the definition of Index Combo order [13] and the rule filing to adopt an Index Combo order.[14] As noted in the rule filing to adopt an Index Combo order, the release further stated that the proposed eight-to-one ratio was selected because it was a ''defined conforming ratio . . . used for stock-option orders . . . .'' [15] The purpose of an Index Combo order is to allow investors to trade an index option with a synthetic underlying position, making it a functional equivalent to a stock-option order.[16] As noted in that rule filing, and in the definition of an Index Combo order in Rule 5.33, an Index Combo order is subject to all provisions applicable to complex orders (excluding the one-to-three/three-to-one ratio) in the Rules, which included permissible execution prices set forth in Rule 5.33(f)(2)(A).[17] Therefore, it is consistent with current Rules to include an Index Combo order as a ''conforming complex order.''

The proposed rule change amends Rules 1.1 (definitions of ''complex order'' and ''stock-option order''); 5.6(c) (definition of ''complex order''); 5.30(a)(4), (b)(4), and (c)(4); 5.33(a) (definition of ''complex order''), (b)(5) (definition of ''stock-option order''), and (f)(A)(iv); 5.83(b); and 5.85(b)(1) and (2) to incorporate the proposed definitions of conforming and nonconforming complex orders but make no other substantive changes to these rules. These proposed changes are consistent with industry terminology regarding complex orders with these ratios.

Based on the definition in Rule 1.1 of complex orders, which includes stock-option orders, the Exchange's previous rule change was intended to apply to stock-option orders (*i.e.,* to permit stock-option orders of any ratio to be processed, including (in permitted classes) electronically.[18] The reasons set forth in that rule change for expanding electronic processing of nonconforming complex orders applies to all complex orders, including stock-option orders. However, the Exchange inadvertently did not update certain provisions specific to stock-option orders. Therefore, in addition to adding the proposed definitions of conforming and nonconforming complex orders, the proposed rule change clarifies that the Exchange may permit stock-option orders of any ratio to be processed, including (in permitted classes) electronically. Specifically, the Exchange proposes to update the definition of stock-option order in Rule 5.33(b)(5) to state in classes determined by the Exchange, a nonconforming stock-option order is not eligible for electronic processing, including the complex order auction (''COA''), complex order book (''COB''), complex automated improvement mechanism (''C–AIM''), and complex solicited auction mechanism (''C–SAM''). This proposed language is the same as language currently included in the definition of ''complex order'' in Rule 5.33(a), the intent of which is to permit the Exchange to determine in which classes nonconforming complex orders (including stock-option orders) may be submitted for electronic processing on the Exchange pursuant to Rule 5.33.

The proposed rule change also adds Rule 5.33(f)(2)(B)(v) to state the System does not execute a stock-option order pursuant to Rule 5.33 at a net price worse than the SBBO or equal to the synthetic best bid or offer (''SBBO'') when there is a Priority Customer order on any leg comprising the SBBO and: (a) if a conforming stock-option order, at least one option component of the stock-option order must execute at a price that improves the BBO for that component by at least one minimum increment; or (b) if a nonconforming stock-option order, the option components of the stock-option order for the leg(s) with a Priority Customer order at the BBO must execute at a price that improves the price of that Priority Customer order(s) on the Simple Book by at least one minimum increment, except AON stock-option orders may only execute at prices better than the SBBO. This is consistent with the permissible execution prices of conforming and nonconforming complex orders with only option components submitted for electronic processing.[19] Similarly, the proposed

[11] *See* Miami International Securities Exchange, LLC (''MIAX'') Rule 518(a)(8) and (16) (defining ''conforming ratio'' and ''nonconforming ratio'').

[12] *See* Rule 5.33(b)(5) (definition of Index Combo order).

[13] *See id.* (defining an ''Index Combo'' order is an order to purchase or sell one or more index option series and the offsetting number of Index Combinations defined by the delta. For purposes of an Index Combo order, the following terms have the following meanings: (1) An ''Index Combination'' is a purchase (sale) of an index option call and sale (purchase) of an index option put with the same underlying index, expiration date, and strike price. (2) A ''delta'' is the positive (negative) number of Index Combinations that must be sold (purchased) to establish a market neutral hedge with one or more series of the same index option. (3) An Index Combo order may not have a ratio greater than eight options to one Index Combination (8.00), and will be subject to all provisions applicable to complex orders (excluding the one-to-three/three-to-one ratio) in the Rules.)

[14] *See* Securities Exchange Act Release No. 87883 (January 2, 2020), 85 FR 942 (January 8, 2020) (SR–CBOE–2019–126).

[15] *See id.* at 945.

[16] *See id.* At the time the Index Combo order type was adopted, Rule 5.33(f)(2)(A) included permissible pricing for conforming complex orders only, which as a result would have applied to Index Combos.

[17] *See id.* and Rule 5.33(b)(5) (subparagraph (3) of definition of Index Combo).

[18] *See supra* note 9; and Exchange Notice, Cboe Options Introduces New Net Price Increments and Enhanced Electronic and Open Outcry Handling for Complex Orders with Non-Conforming Ratios, dated March 21, 2022 (available at Cboe Options Introduces New Net Price Increments and Enhanced Electronic and Open Outcry Handling for Complex Orders with Non-Conforming Ratios). The Exchange notes another options exchange interprets current Rule 5.33 to permit the electronic processing of nonconforming stock-option orders.

[19] *See* Rule 5.33(f)(2)(A)(iv).

rule change adds Rule 5.85(b)(4) and (5) to state:

• A conforming stock-option order may be executed at a net debit or credit price without giving priority to equivalent bids (offers) in the individual series legs that are represented in the trading crowd or in the Book if the price of at least one option leg of the order improves the corresponding bid (offer) of a Priority Customer order(s) in the Book by at least one minimum trading increment as set forth in Rule 5.4(b). In other words, if there is a Priority Customer order on every leg comprising the SBBO, at least one option leg of the stock-option order must execute at a price that improves the price of the Priority Customer order on the Simple Book for that leg by at least one minimum increment.

• A nonconforming stock-option order may be executed at a net debit or credit price without giving priority to equivalent bids (offers) in the individual series legs that are represented in the trading crowd or in the Book if each option leg of the order betters the corresponding bid (offer) of a Priority Customer order(s) in the Book on each leg by at least one minimum trading increment as set forth in Rule 5.4(b). In other words, if there is a Priority Customer order on any leg(s) comprising the SBBO, the component(s) of the stock-option for the option leg(s) with a Priority Customer order at the BBO must execute at a price that improves the price of that Priority Customer order(s) on the Simple Book by at least one minimum increment.

This is consistent with the permissible execution prices of conforming and nonconforming complex orders with only option components submitted for open outcry processing.[20]

Therefore, execution of all conforming and nonconforming complex orders, including stock-option orders, continues to protect Priority Customer interest on the Exchange.[21]

The proposed rule change has no impact on the requirements for stock-option orders or how they may be executed. For example, all stock-option orders (both conforming and nonconforming) must satisfy the criteria set forth in the definitions of stock-option orders in Rule 1.1 (for open outcry processing) and 5.33(b) (for electronic processing), as set forth above. Additionally, all stock-option orders must comply with the Qualified Contingent Trade (''QCT'') exemption.[22] The Exchange represents that its surveillances incorporate stock-option orders with all ratios, including nonconforming ratios.

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.[23] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[24] 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)[25] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change to adopt definitions of conforming and nonconforming complex orders (including stock-option orders) in Rule 1.1, and to incorporate these proposed definitions into Rules 1.1 (definitions of ''complex order'' and ''stock-option order''), 5.6(c) (definition of ''complex order''); 5.30(a)(4), (b)(4), and (c)(4), 5.33(a) (definition of ''complex order''), (b)(5) (definition of ''stock-option order''), and (f)(A)(iv), 5.83(b), and 5.85(b)(1) and (2), will protect investors, as it incorporates into the Exchange's Rules terminology generally used in the industry to refer to complex orders with ratios equal to and greater than 0.33, including Index Combos (conforming) and less than 0.33 [sic] and greater than 3.00 (nonconforming), and stock-option orders with ratios less than or equal to 8.00 (conforming) and greater than 8.00 (nonconforming). As discussed above, inclusion of Index Combos within the definition of a conforming complex order is consistent with the definition of Index Combos and the rule filing to adopt Index Combos.[26] Therefore, the Exchange believes this proposed rule change adds transparency and reduces potential confusion within the Exchange's Rules. These definitions ultimately make no substantive changes to the rules and relate merely to terminology. The Exchange notes these definitions are substantially similar to definitions used in at least one other options exchanges' [sic] rulebook.[27]

Additionally, the Exchange believes the proposed rule change to provide for the electronic processing of stock-option orders with any ratio will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to [sic] protect investors and the public interest, as it will eliminate confusion regarding what types of stock-option orders are permissible for electronic processing. As noted above, when the Exchange amended its Rules to permit the electronic processing of nonconforming complex orders, the intent of that amended was to permit the electronic processing of all nonconforming complex orders, including nonconforming stock-option orders.[28] The reasons set forth in the Exchange's prior rule filing regarding expansion of electronic processing of nonconforming complex orders applies to all complex orders, including stock-option orders; the Exchange inadvertently omitted updates to certain provision regarding stock-option orders to incorporate that change.[29] The proposed rule change merely updates the definition of stock-option order to incorporate the same change that was made to the definition of complex order with respect to electronic processing to provide consistency and transparency in the Exchange's Rules. As noted above, the proposed rule changes regarding execution of conforming and nonconforming stock-option orders are consistent with the Exchange's previously adopted rules regarding

[20] *See* Rule 5.85(b)(1) and (2).

[21] To avoid potential confusion, the proposed rule change deletes from Rule 5.85(b)(3) that stock-option orders do not have priority over Priority Customer bids (offers) in the simple book, as proposed subparagraphs (4) and (5) more explicitly describe stock-option order priority with respect to bids and offers in the simple book.

[22] *See* Rule 5.33, Interpretation and Policy .04.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] *Id.*

[26] See Securities Exchange Act Release No. 87883 (January 2, 2020), 85 FR 942, 945 (January 8, 2020) (SR–CBOE–2019–126); and Rule 5.33(b)(5) (definition of Index Combo).

[27] *See* MIAX Rule 518(a)(8) and (16) (defining ''conforming ratio'' and ''nonconforming ratio'').

[28] The current definition of stock-option order in Rule 1.1 applicable to open outcry trading has no ratio restriction. Therefore, current Rules do not currently restrict submission of stock-option orders for open outcry trading to conforming stock-option orders (as discussed, the Exchange proposes to add clarity regarding permissible open outcry execution prices of nonconforming stock-option orders, which are consistent with those of other nonconforming complex orders).

[29] *See supra* note 9.

execution of other conforming and nonconforming complex orders. This proposed change is also consistent with the rules of at least one other options exchange.[30]

The proposed rule change also adds provisions in Rules 5.33(f)(2)(B) and 5.85(b) (and deletes the current provision in Rule 5.85(b)(3) describing stock-option order priority with respect to Priority Customer bids (offers) in the Book) regarding the specific permissible execution prices for conforming and nonconforming stock-option orders, consistent with the execution pricing for other conforming and nonconforming complex orders, which further adds transparency regarding the execution of these orders on the Exchange (both electronically and in open outcry). The Exchange believes the proposed rule change will add clarity, transparency, and consistency to its Rules, thus eliminating potential confusion about the permissible execution prices of conforming and nonconforming complex orders, which will ultimately remove impediments to and perfect the mechanisms of a free and open market and national market system, and in general protect investors.

The proposed rule change will permit the electronic trading of nonconforming stock-option orders but has no impact on the requirements for stock-option orders or how they may be executed. Execution of all conforming and nonconforming complex orders, including stock-option orders, will continue to protect Priority Customer interest on the Exchange. All stock-option orders (both conforming and nonconforming) must satisfy the criteria set forth in the definitions of stock-option orders in Rule 1.1 (for open outcry processing) and 5.33(b) (for electronic processing), which are described above. Additionally, all stock-option orders must comply with the Qualified Contingent Trade (''QCT'') exemption.[31] The Exchange represents that its surveillances incorporate stock-option orders with all ratios, including nonconforming ratios.

The proposed rule change will further remove impediments to and perfect the mechanism of a free and open market and a national market system, as it is similar to the Rules of at least one other options exchange.[32]

[30] *See* MIAX Rule 518, Interpretation and Policy .01(c).

[31] *See* Rule 5.33, Interpretation and Policy .04.

[32] *See* MIAX Rules 518(a)(5), (8), and (16) and Interpretation and Policy .01(c).

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.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposed rule change applies equally to all Trading Permit Holders (''TPHs''). Therefore, any TPH may submit conforming and nonconforming stock-option orders for open outcry or electronic processing, which will all be handled by the Exchange in a uniform manner. Further, the Exchange's proposal will continue to protect Priority Customer interest on the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as it has no impact on the requirements for stock-option orders or how they may be executed. As discussed above, the proposed rule change merely updates certain rule provisions it inadvertently did not update in connection with a previous rule change. Additionally, the proposed rule change is consistent with the offering of at least one other options exchange.[33] The Exchange believes availability of conforming and nonconforming complex orders, including stock-option orders, may promote competition, as it provides investors with multiple venues at which to electronically execute these orders, giving investors greater flexibility and choice of where to send their orders.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[34] and Rule 19b–4(f)(6) thereunder.[35]

[33] See id.

A proposed rule change filed under Rule 19b–4(f)(6)[36] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[37] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to allow the Exchange to make clear in its rules that non-conforming ratio stock-option orders in classes determined by the Exchange are eligible for electronic processing. The Exchange notes that another options exchange currently allows non-conforming ratio stock-option orders to trade electronically.[38] Accordingly, the proposal will provide investors with an additional venue for trading non-conforming ratio stock-option orders electronically. The proposal also adopts definitions of ''conforming complex order'' and ''non-conforming complex order'' and incorporates these definitions into the Exchange's rules. The ratio requirements in the proposed definitions of conforming complex order and non-conforming complex order are consistent with the requirements in defined terms used by another options exchange.[39] As discussed above, the Exchange states that the permissible execution prices for stock-option orders with conforming and nonconforming ratios are consistent with the permissible execution prices for conforming and nonconforming complex orders with only option components, and will continue to protect Priority Customer interest on the Exchange.

The Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The proposal will provide investors with an additional venue for the electronic trading of nonconforming, as well as conforming, stock-option orders. In addition, the proposal adds to the Exchange's rules

[34] 15 U.S.C. 78s(b)(3)(A).

[35] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[36] 17 CFR 240.19b–4(f)(6).

[37] 17 CFR 240.19b–4(f)(6)(iii).

[38] *See* MIAX Rule 518(a)(5).

[39] *See* MIAX Rules 518(a)(8) and (a)(16) (defining ''conforming ratio'' and ''non-conforming ratio,'' respectively).

definitions of conforming complex order and nonconforming complex order that are consistent with defined terms used on another options exchange.[40] The proposal incorporates the proposed definitions of conforming and nonconforming complex order into the Exchange's rules, including Exchange Rules 5.33(f)(2) and 5.85(b), and adds new Exchange Rules 5.33(f)(2)(b)(v) and 5.85(b)(4) and (5) to specifically address the permissible execution prices for stock-option orders, but makes no substantive changes to the permissible execution prices for complex order or stock-option orders.[41] Accordingly, the proposal raises no new or novel regulatory issues. For these reasons, the Commission designates the proposal operative upon filing.[42]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CBOE–2023–052 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–CBOE–2023–052. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CBOE–2023–052 and should be submitted on or before October 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21346 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

[40] *See* MIAX Rules 518(a)(8) and (a)(16).

[41] The permissible execution prices for stock-options orders currently are addressed in Cboe Rules 5.33(f)(2)(B)(ii) and 5.85(b)(3).

[42] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[43] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–636, OMB Control No. 3235–0679]

Submission for OMB Review; Comment Request; Extension: Form PF and Rule 204(b)–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 204(b)–1 (17 CFR 275.204(b)–1) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*) implements sections 404 and 406 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'') by requiring private fund advisers that have at least $150 million in private fund assets under management to report certain information regarding the private funds they advise on Form PF. These advisers are the respondents to the collection of information.

Form PF is designed to facilitate the Financial Stability Oversight Council's (''FSOC'') monitoring of systemic risk in the private fund industry and to assist FSOC in determining whether and how to deploy its regulatory tools with respect to nonbank financial companies. The Commission and the Commodity Futures Trading Commission may also use information collected on Form PF in their regulatory programs, including examinations, investigations and investor protection efforts relating to private fund advisers.

Form PF divides respondents into two broad groups, Large Private Fund Advisers and smaller private fund advisers. ''Large Private Fund Advisers'' are advisers with at least $1.5 billion in assets under management attributable to hedge funds (''large hedge fund advisers''), advisers that manage ''liquidity funds'' and have at least $1 billion in combined assets under management attributable to liquidity funds and registered money market funds (''large liquidity fund advisers''), and advisers with at least $2 billion in assets under management attributable to private equity funds (''large private equity fund advisers''). All other respondents are considered smaller private fund advisers.

The Commission estimates that most filers of Form PF have already made their first filing, and so the burden hours applicable to those filers will reflect only ongoing burdens, and not start-up burdens. Accordingly, the Commission estimates the total annual reporting and recordkeeping burden of the collection of information for each respondent is as follows:

(a) For smaller private fund advisers making their first Form PF filing, an estimated amortized average annual burden of 13 hours for each of the first three years

(b) for smaller private fund advisers that already make Form PF filings, an estimated amortized average annual

burden of 15 hours for each of the next three years;

(c) for smaller private fund advisers, an estimated average annual burden of 5 hours for event reporting for smaller private equity fund advisers for each of the next three years;

(d) for large hedge fund advisers making their first Form PF filing, an estimated amortized average annual burden of 108 hours for each of the first three years;

(e) for large hedge fund advisers that already make Form PF filings, an estimated amortized average annual burden of 600 hours for each of the next three years;

(f) for large hedge fund advisers, an estimated average annual burden of 10 hours for current reporting for each of the next three years;

(g) for large liquidity fund advisers making their first Form PF filing, an estimated amortized average annual burden of 67 hours for each of the first three years;

(h) for large liquidity fund advisers that already make Form PF filings, an estimated amortized average annual burden of 280 hours for each of the next three years;

(i) for large private equity fund advisers making their first Form PF filing, an estimated amortized average annual burden of 84 hours for each of the first three years;

(j) for large private equity fund advisers that already make Form PF filings, an estimated amortized average annual burden of 100 hours for each of the next three years; and

(k) for large private equity fund advisers, an estimated average annual burden of 5 hours for event reporting for each of the next three years.

With respect to annual internal costs, the Commission estimates the collection of information will result in 122.86burden hours per year on average for each respondent. With respect to external cost burdens, the Commission estimates a range from $0 to $50,000 per adviser. Estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. The changes in burden hours are due to the staff's estimates of the time costs and external costs that result from the adopted amendments, the use of updated data, and the use of different methodologies to calculate certain estimates. Compliance with the collection of information requirements of Form PF is mandatory for advisers that satisfy the criteria described in Instruction 1 to the Form. Responses to the collection of information will be kept confidential to the extent permitted by law. The Commission does not intend to make public information reported on Form PF that is identifiable to any particular adviser or private fund, although the Commission may use Form PF information in an enforcement action. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by October 30, 2023 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov* .

Dated: September 26, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21430 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98494; File No. SR–FICC–2023–011]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change, as Modified by Amendment No. 1, To Adopt a Portfolio Differential Charge as an Additional Component to the Government Securities Division Required Fund Deposit

September 25, 2023.

I. Introduction

On August 3, 2023, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2023–011 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] On August 16, 2023, FICC filed Amendment No. 1 to the proposed rule change, to make clarifications to the proposed rule change.[3] The proposed rule change, as modified by Amendment No. 1, is hereinafter referred to as the ''Proposed Rule Change.'' The Proposed Rule Change was published for comment in the **Federal Register** on August 23, 2023.[4] The Commission has received no comments on the Proposed Rule Change. For the reasons discussed below, the Commission is approving the Proposed Rule Change.[5]

II. Background

FICC is a central counterparty (''CCP''), which means it interposes itself as the buyer to every seller and seller to every buyer for the financial transactions it clears. FICC's Government Securities Division (''GSD'') [6] provides trade comparison, netting, risk management, settlement, and CCP services for the U.S. Government securities market. As such, FICC is exposed to the risk that one or more of its members may fail to make a payment or to deliver securities.

A key tool that FICC uses to manage its credit exposures to its members is the daily collection of the Required Fund Deposit (*i.e.,* margin) from each member. A member's margin is designed to mitigate potential losses associated with liquidation of the member's portfolio in the event of that member's default. The aggregated amount of all members' margin constitutes the Clearing Fund, which FICC would be able to access should a defaulted member's own margin be insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio. Each member's margin consists of a number of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 made clarifications and corrections to the description of the proposed rule change and Exhibit 3a of the filing (Summary of Impact Study) to incorporate a longer impact analysis. As originally filed, the time-period of the impact analysis was November 2021 to October 2022. As amended by Amendment No. 1, the time-period of the impact analysis is November 2021 to March 2023. These clarifications and corrections have been incorporated, as appropriate, into the proposed rule change. FICC has requested confidential treatment of Exhibit 3a, pursuant to 17 CFR 240.24b–2.

[4] *See* Securities Exchange Act Release No. 98160 (Aug. 17, 2023), 88 FR 57485 (Aug. 23, 2023) (File No. SR–FICC–2023–011) (''Notice of Filing'').

[5] Capitalized terms not defined herein are defined in the GSD Rulebook (''Rules''), *available at https://www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_gov_rules.pdf.*

[6] FICC operates two divisions: GSD and the Mortgage-Backed Securities Division (''MBSD''). GSD provides CCP services for the U.S. Government securities market; MBSD provides CCP services for the U.S. mortgage-backed securities market. GSD and MBSD maintain separate sets of rules, margin models, and clearing funds. The Proposed Rule Change relates solely to GSD.

components, each of which is calculated to address specific risks faced by FICC arising out of its members' trading activity. Each member's margin includes a value-at-risk (''VaR'') charge (''VaR Charge'') designed to capture the potential market price risk [7] associated with the securities in a member's portfolio. The VaR Charge is typically the largest component of a member's margin requirement.

The VaR Charge uses a sensitivity-based VaR methodology and is based on the potential price volatility of unsettled positions in a member's portfolio. It is designed to project the potential losses that could occur in connection with the liquidation of a defaulting member's portfolio, assuming the portfolio would take three days to liquidate in normal market conditions and uses three inputs: (1) confidence level, (2) a time horizon and (3) historical market volatility. The projected liquidation gains or losses are used to determine the amount of the VaR Charge for each portfolio, which is calculated to capture the market price risk associated with each portfolio at a 99 percent confidence level.

FICC calculates and collects a start-of-day VaR component, which is designed to address the risk presented by a member's start-of-day positions. FICC also calculates and collects an intraday VaR component, which reflects the changes in a member's positions and risk profile due to the submission of new trades and completed settlement activity from the start-of-day to noon. Additionally, FICC re-calculates the amount of the intraday VaR Charge applicable to each member portfolio, based on the open positions therein, to determine whether FICC will collect an additional margin amount (the ''Intraday Supplemental Fund Deposit'' or ''ISFD''). FICC calculates the ISFD by evaluating certain criteria with respect to a member's intraday VaR Charge and backtesting results.[8] FICC may assess the ISFD in the event that a member's risk exposure breaches certain criteria.[9]

FICC states that it regularly assesses market and liquidity risks as such risks relate to its margin methodologies to evaluate whether margin levels are commensurate with the particular risk attributes of each relevant product, portfolio, and market.[10] For example, FICC employs daily backtesting [11] to determine the adequacy of each member's margin. FICC compares each member's margin with the simulated liquidation gains/losses, using the actual positions in the member's portfolio(s) and the actual historical security returns. A backtesting deficiency occurs when a member's margin would not have been adequate to cover the projected liquidation losses estimated from the member's settlement activity based on the backtesting results. Backtesting deficiencies highlight exposure that could subject FICC to potential losses in the event of a member default. FICC states that it investigates the cause(s) of any backtesting deficiencies to determine whether there is an identifiable cause of repeat backtesting deficiencies and/or whether multiple members may experience backtesting deficiencies for the same underlying reason.[12]

FICC states that based on its regular review of the effectiveness of its margin methodology, FICC has identified backtesting deficiencies attributable to intraday margin fluctuations in certain member portfolios as those members execute trades throughout the day.[13] Specifically, since FICC generally novates and guarantees trades upon comparison,[14] a member's trading activity may result in coverage gaps due to large un-margined intraday portfolio fluctuations that remain unmitigated from the time of novation until the next scheduled margin collection.[15] FICC designed the Proposed Rule Change to mitigate such exposure.

III. Description of the Proposed Rule Change

FICC proposes to add a new margin component, the Portfolio Differential Charge (''PD Charge''), to its methodology for calculating members' margin. FICC designed the PD Charge to help mitigate the risks posed to FICC by the variability of clearing activity submitted by members to GSD throughout the day, by measuring the historical period-over-period increases in the VaR Charge of a member over a given time-period.[16] FICC would calculate the PD Charge twice a day, and if applicable, add the PD Charge to the calculation of the member's margin.

Specifically, in determining the PD Charge, FICC would take into account the historical period-over-period increases between the (1) start-of-day and intraday VaR components, and (2) intraday and end-of-day VaR components, respectively, of a member's margin over a look-back period of no less than 100 days, with a decay factor of no greater than 1.[17] FICC would calculate the PD Charge to equal the exponentially weighted moving average of such changes to the member's VaR Charge during the look-back period, times a multiplier that is no less than one and no greater than three, as determined by FICC from time to time based on backtesting results.[18] The use of this type of average means that FICC would use an exponentially weighted

[7] Market price risk refers to the risk that volatility in the market causes the price of a security to change between the execution of a trade and settlement of that trade. This risk is sometimes also referred to as volatility risk.

[8] The first criterion, the ''Dollar Threshold,'' evaluates whether a member's intraday VaR Charge equals or exceeds a set threshold dollar amount when compared to the VaR Charge that was included in the most recent margin collection. The second criterion, the ''Percentage Threshold,'' evaluates whether the intraday VaR Charge equals or exceeds a percentage increase of the VaR Charge that was included in the most recent margin collection. The third criterion, the ''Coverage Target,'' evaluates whether a member's backtesting results are below the 99 percent confidence level. Securities Exchange Act Release No. 83362 (June 1, 2018), 83 FR 26514 (June 7, 2018) (File No. SR–FICC–2018–001); Securities Exchange Act Release No. 83223 (May 11, 2018), 83 FR 23020 (May 17, 2018) (File No. SR–FICC–2018–801).

[9] FICC assesses an ISFD if a member's risk exposure breaches all three of the Dollar Threshold, Percentage Threshold, and Coverage Target. FICC also assesses an ISFD if, under certain market conditions, a member's intraday VaR Charge breaches both the Dollar Threshold and the Percentage Threshold. *Id.*

[10] *See* Notice of Filing, *supra* note 4, at 57485.

[11] Backtesting is an ex-post comparison of actual outcomes with expected outcomes derived from the use of margin models. *See* 17 CFR 240.17Ad–22(a)(1).

[12] *See id.* at 57486.

[13] *See id.* at 57487.

[14] Trade comparison consists of the reporting, validating, and in some cases, matching by FICC of the long and short sides of a securities trade to ensure that the details of such trade are in agreement between the parties. *See* GSD Rule 5, *supra* note 5.

[15] *See* Notice of Filing, *supra* note 4, at 57486.

[16] *See id.* The proposed PD Charge is different from the ISFD because the PD Charge is meant to capture the risks presented by the unpredictability of a member's *historical* trading activity, as measured, in part, by the variability in a member's VaR Charge over the look-back period; by contrast, the ISFD is meant to capture the intraday volatility risks presented by the *existing* net unsettled positions in a member's portfolio. *See id.*

[17] Upon implementation of the Proposed Rule Change, FICC would use a 100-day look-back period in conjunction with a decay factor of 0.97, which FICC believes would provide a sufficient amount of time to reflect the current market conditions. As market conditions shift, FICC may modify the look-back period and/or the decay factor from time to time, subject to FICC's model governance process and announced by FICC via an Important Notice posted on its website. *See id.* at note 14.

[18] FICC states that the uncertainty of the market condition and/or changes in members' business models may lead to changes in member activity patterns that would require a multiplier greater than 1 be invoked from time to time. *See id.* at note 15. FICC would determine whether to modify the multiplier based on the backtesting results to evaluate the effectiveness of PD Charge as a mitigant of the position change risk and may change the multiplier from time to time to maintain the effectiveness of the PD Charge in generating sufficient backtesting coverage. Changes to the multiplier would be subject to FICC's model governance process and be announced by FICC via an Important Notice posted to its website.

array of VaR Charges, the result of which is to emphasize more recent observations in determining the PD Charge (that is, it places more weight and significance on more recent data points).

FICC believes the PD Charge would address the period-over-period changes to members' VaR Charges, and thereby help mitigate the risks posed to FICC by un-margined period-over-period fluctuations to member portfolios resulting from trades that FICC novates and guarantees during the coverage gap between margin collections.[19] In support, FICC cites an impact study it conducted that covers the period from November 2021 to March 2023 (the ''Impact Study'').[20] The Impact Study shows, among other things, that if the PD Charge had been in place from April 2022 through March 2023, the number of backtesting deficiencies would have been reduced by 77 (from 498 to 421, or approximately 15 percent) and the backtesting coverage for 44 members (approximately 34 percent of the GSD membership) would have improved, with 14 members who were below 99 percent coverage brought back to above 99 percent.[21]

IV. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[22] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. After carefully considering the Proposed Rule Change, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to FICC. In particular, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F)[23] of the Act and Rules 17Ad–22(e)(4)(i), (e)(6)(i), and (e)(6)(iii) thereunder.[24]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act[25] requires that the rules of a clearing agency, such as FICC, be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[26] The Commission believes that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act for the reasons stated below.

As described above in Section III, FICC proposes to add the PD Charge to the margin requirements that FICC may collect. As discussed in more detail in Section IV.B *infra,* the Commission believes adding the PD Charge to FICC's margin methodology would help ensure that FICC collects sufficient margin to cover its credit exposure associated with the variability of clearing activity submitted by members to GSD throughout the day by measuring the historical period-over-period increases in the VaR Charges of members over the look-back period. By helping FICC to collect sufficient margin, the Proposed Rule Change would better ensure that, in the event of a member default, FICC's operation of its critical clearance and settlement services would not be disrupted because of insufficient financial resources. Accordingly, the Commission finds that the Proposed Rule Change should help FICC to continue providing prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[27]

Moreover, as described above in Section II, FICC would access the mutualized Clearing Fund should a defaulted member's own margin be insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio. Because FICC's proposal to adopt the PD Charge should help ensure that FICC has collected sufficient margin from members, the Proposed Rule Change should also help minimize the likelihood that FICC would have to access the Clearing Fund, thereby limiting non-defaulting members' exposure to mutualized losses. The Commission believes that by helping to limit the exposure of FICC's non-defaulting members to mutualized losses, the Proposed Rule Change would help FICC assure the safeguarding of securities and funds which are in its custody or control, consistent with Section 17A(b)(3)(F) of the Act.[28]

B. Consistency With Rule 17Ad–22(e)(4)(i) Under the Act

Rule 17Ad–22(e)(4)(i) under the Act requires that each covered clearing agency, such as FICC, establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[29] The Commission believes that the Proposed Rule Change is consistent with Rule 17Ad–22(e)(4)(i) under the Act for the reasons stated below.[30]

The Commission agrees that FICC's proposal to add the PD Charge to its margin methodology would enable FICC to better manage its credit exposures to members by maintaining sufficient resources to cover those credit exposures fully with a high degree of confidence. Specifically, the proposed PD Charge would allow FICC to collect additional margin on an intraday basis to help FICC effectively mitigate the risks attributable to intraday margin fluctuations in certain member portfolios as those members execute trades throughout the day between margin collections. As discussed above in Section II, since FICC generally novates and guarantees trades upon comparison, a member's trading activity may result in coverage gaps due to large un-margined intraday portfolio fluctuations that remain unmitigated from the time of novation until the next scheduled margin collection. The PD Charge would help FICC mitigate such exposure.

The Commission has reviewed and analyzed the materials filed by FICC, including FICC's Impact Study and backtesting results submitted confidentially,[31] which show that had the PD Charge been in place from April 2022 through March 2023, it would have reduced number of backtesting deficiencies and thereby better enabled FICC to collect margin sufficient to meet its coverage requirements. Accordingly,

[19] *See id.* at 57486.

[20] As part of the Proposed Rule Change, FICC filed Exhibit 3a—Summary of Impact Analysis (*i.e.,* the Impact Study), comparing, on a member by member basis, the actual margin collections during the period of the Impact Study to the hypothetical margin collections FICC would have collected had the PD Charge been in place during that period. The Impact Study shows that the rolling 12-month Clearing Fund requirement backtesting coverage ratio (from April 2022 through March 2023) would have improved from 98.37 percent to 98.62 percent. The Impact Study also shows what the average daily PD Charge would be on a per member basis. Pursuant to 17 CFR 240.24b–2, FICC requested confidential treatment of Exhibit 3b. For further discussion of the Impact Study, see the Notice of Filing. *See id.* at 57487.

[21] *See id.*

[22] 15 U.S.C. 78s(b)(2)(C).

[23] 15 U.S.C. 78q–1(b)(3)(F).

[24] 17 CFR 240.17Ad–22(e)(4)(i), (e)(6)(i), and (e)(6)(iii).

[25] 15 U.S.C. 78q–1(b)(3)(F).

[26] *Id.*

[27] 15 U.S.C. 78q–1(b)(3)(F).

[28] *Id.*

[29] 17 CFR 240.17Ad–22(e)(4)(i).

[30] *Id.*

[31] *See supra* note 20.

for the reasons discussed above, the Commission finds that the Proposed Rule Change is reasonably designed to better enable FICC to effectively identify, measure, monitor, and manage its credit exposure to members, and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each member fully with a high degree of confidence consistent with Rule 17Ad–22(e)(4)(i).[32]

C. Consistency With Rule 17Ad–22(e)(6)(i) Under the Act

Rule 17Ad–22(e)(6)(i) under the Act requires that each covered clearing agency that provides central counterparty services, such as FICC, establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[33] The Commission believes that the proposal is consistent with Rule 17Ad–22(e)(6)(i) under the Act for the reason stated below.

The Commission agrees that FICC's proposal to add the PD Charge to its margin methodology would enable FICC to more effectively address the risks posed to FICC by un-margined period-over-period fluctuations to member portfolios resulting from trades that FICC novates and guarantees during the coverage gap between margin collections. In its filing materials, FICC provided information regarding the impacts of the proposed PD Charge on its margin collection.[34] Specifically, the Impact Study shows that if the PD Charge had been in place from April 2022 through March 2023, the number of backtesting deficiencies would have been reduced by 77 (from 498 to 421, or approximately 15 percent) and the backtesting coverage for 44 members (approximately 34 percent of the GSD membership) would have improved, with 14 members who were below 99 percent coverage brought back to above 99 percent.[35] The Commission has reviewed and analyzed FICC's analysis and agrees that adding the PD Charge to FICC's margin methodology would enable FICC to more effectively mitigate the risks attributable to intraday margin fluctuations arising out of member trading activity between margin collections. As a result, implementing the Proposed Rule Change would better enable FICC to collect margin amounts at levels commensurate with FICC's intraday credit exposures to its members.

Accordingly, the Commission finds the Proposed Rule Change is consistent with Rule 17Ad–22(e)(6)(i) under the Act because it is designed to assist FICC in maintaining a risk-based margin system that considers, and produces margin levels commensurate with, the risks of portfolios that experience significant volatility on an intraday basis.[36]

D. Consistency With Rule 17Ad–22(e)(6)(iii) Under the Act

Rule17Ad–22(e)(6)(iii) under the Act requires that each covered clearing agency, such as FICC, establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default.[37] The Commission believes that the proposal is consistent with Rule 17Ad–22(e)(6)(iii) under the Act for the reason stated below.

As stated above in Section II, FICC's proposal to add the PD Charge is designed to address FICC's exposure to its members attributable to trading activity that takes place in the interval between margin collections. Specifically, since FICC generally novates and guarantees trades upon comparison, a member's trading activity may result in coverage gaps due to large un-margined intraday portfolio fluctuations that remain unmitigated between margin collections.[38] As discussed above in Section IV.C, based on the Commission's review of the filing materials, the Commission agrees that that FICC's proposal to add the PD Charge to its margin methodology should enable FICC to more effectively address the risks posed to FICC by un-margined period-over-period fluctuations to member portfolios resulting from trades that FICC novates and guarantees during the coverage gap between margin collections.

Accordingly, the Commission finds the Proposed Rule Change is consistent with Rule 17Ad–22(e)(6)(iii) under the Act because it is designed to better enable FICC to cover its credit exposures to its members by establishing a risk-based margin system that specifically calculates margin sufficient to cover its potential future exposure to members in the interval between the last margin collection and the close out of positions following a member default.[39]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change, as modified by Amendment No. 1, is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[40] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[41] that proposed rule change SR–FICC–2023–011, be, and hereby is, *approved*.[42]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21338 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98497; File No. SR–CboeBZX–2023–062]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend the Initial Period After Commencement of Trading of a Series of ETF Shares on the Exchange as It Relates to the Holders of Record and/or Beneficial Holders, as Provided in Exchange Rule 14.11(l)

September 25, 2023.

On August 14, 2023, Cboe BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule

[32] 17 CFR 240.17Ad–22(e)(4)(i).

[33] 17 CFR 240.17Ad–22(e)(6)(i).

[34] *See supra* note 20.

[35] *See id.*

[36] 17 CFR 240.17Ad–22(e)(6)(i).

[37] 17 CFR 240.17Ad–22(e)(6)(iii).

[38] *See* Notice of Filing, *supra* note 4, at 57486.

[39] 17 CFR 240.17Ad–22(e)(6)(iii).

[40] 15 U.S.C. 78q–1.

[41] 15 U.S.C. 78s(b)(2).

[42] In approving the Proposed Rule Change, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[43] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change to amend the initial period after commencement of trading of a series of ETF Shares on the Exchange as it specifically relates to holders of record and/or beneficial holders under BZX Rule 14.11(l). The proposed rule change was published for comment in the **Federal Register** on September 1, 2023.[3]

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is October 16, 2023. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised therein. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates November 30, 2023, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBZX–2023–062).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21341 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

[3] *See* Securities Exchange Act Release No. 98231 (August 28, 2023), 88 FR 60516. No comments have been received on the proposed rule change.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98514; File No. SR–OPRA–2023–01]

Joint Industry Plan; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Amendment To Modify the Options Price Reporting Authority's Fee Schedule Regarding Caps on the Amounts of Certain Port Fees

September 25, 2023.

I. Introduction

On July 14, 2023, the Options Price Reporting Authority (''OPRA''), pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 608 of Regulation National Market System (''Regulation NMS'') thereunder,[2] filed with the Securities and Exchange Commission (''Commission'') a proposed amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'').[3] The proposed OPRA Plan amendment (''Proposed Amendment'') would amend the OPRA Fee Schedule to reflect the applicable monthly fee caps on certain connectivity ports that are used to access OPRA data. The Proposed Amendment was published for comment in the **Federal Register** on August 2, 2023.[4] The Commission has not received any comments on the Proposed Amendment.

This order institutes proceedings, under Rule 608(b)(2)(i) of Regulation NMS,[5] to determine whether to approve or disapprove the Proposed Amendment or to approve the Proposed Amendment with any changes or subject to any conditions the Commission deems necessary or appropriate after considering public comment.

[1] 15 U.S.C 78k–1.

[2] 17 CFR 242.608.

[3] The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. *See* Securities Exchange Act Release No. 17638 (Mar. 18, 1981), 22 SEC. Docket 484 (Mar. 31, 1981). The full text of the OPRA Plan and a list of its participants are available at *https://www.opraplan.com/*. The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges.

[4] *See* Securities Exchange Act Release No. 98012 (July 27, 2023), 88 FR 50939 (''Notice'').

[5] 17 CFR 242.608(b)(2)(i).

II. Summary of the Proposed Amendment[6]

OPRA states that the Proposed Amendment is designed to amend the OPRA Fee Schedule to provide public notice that OPRA negotiated terms in the 2021 Processor Services Agreement (the ''2021 Processor Agreement'') between OPRA and the Securities Industry Automation Corporation (''SIAC'') that impose caps on certain port fees that can be charged per month when SIAC, either directly or through a third party, provides direct access to OPRA data to any person authorized by OPRA to receive direct access to OPRA data.[7] OPRA further states that, under the 2021 Processor Agreement, SIAC is OPRA's ''processor,'' meaning that SIAC gathers the last sale and quote information from each of the OPRA members, consolidates that information, and disseminates the consolidated OPRA data.[8] According to OPRA, as the processor, SIAC works directly with OPRA members and data vendors to provide connectivity to SIAC, and connectivity to SIAC is currently provided by an affiliate of SIAC, the ICE Global Network (''IGN''), which both sets and charges the port fees associated with that connectivity.[9]

OPRA states that recipients of OPRA data can access that data using a 10 gigabit (''Gb''), 40 Gb, or 100 Gb network connection. OPRA further states that it has contractually capped the connectivity or ''port'' fees that SIAC, or any third party utilized by SIAC, may charge to provide direct connectivity to OPRA data using a 10 Gb or 40 Gb connection and that it has ''the right to approve a cap on port fees that could be charged for . . . higher capacity ports'' in the event that such higher capacity ports become available in the future.[10]

OPRA states that the negotiated port fee caps of $16,000 per month per 10 Gb port and $20,500 per month per 40 Gb port were established as part of the 2015 Processor Agreement between OPRA and SIAC.[11] OPRA further states that these caps were retained in the 2021 Processor Agreement,[12] and that OPRA's Management Committee

[6] The full text of the Proposed Amendment appears as Attachment A to the Notice. *See* Notice, *supra* note 4, 88 FR at 50941–42.

[7] *See id.* at 50939.

[8] *See id.*

[9] *See id.*

[10] *See id.*

[11] *See id.*

[12] *See id.* at 50939–40 (stating OPRA ''used the negotiation process as an opportunity to ensure that SIAC's ability to increase the amount of port fees would be capped during the term of the 2015 Processor Agreement for all OPRA data recipients, including OPRA members, who were authorized to receive direct access to OPRA data.'').

subsequently approved the $30,000 per month port fee cap with respect to the 100 Gb port in September 2021 in accordance with the terms of the 2021 Processor Agreement.[13]

OPRA states that it does not provide access ports, does not itself charge any port fees, does not collect any fees on behalf of OPRA members in connection with access to SIAC, and does not receive any portion of port fees charged by other entities.[14] OPRA further states that it does not believe the caps that it negotiated with SIAC concerning ''the amount of port fees that can be charged either (1) establishes or changes a fee or charge collected on behalf of the members of the OPRA Plan in connection with access to, or use of, any OPRA facilities or (2) represents a fee or charge imposed by OPRA as contemplated by Rule 608(a)(5)(ii) of Regulation NMS.'' [15] OPRA states that it submitted the Proposed Amendment to ''provide notice of the contractual fee caps it negotiated with SIAC'' and because Commission staff requested that it do so.[16]

III. Proceedings To Determine Whether To Approve Or Disapprove the Proposed Amendment

The Commission is instituting proceedings pursuant to Rule 608(b)(2)(i) of Regulation NMS,[17] and Rule 700 of the Commission's Rules of Practice,[18] to determine whether to approve or disapprove the Proposed Amendment or to approve the Proposed Amendment with any changes or subject to any conditions the Commission deems necessary or appropriate after considering public comment. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the Proposed Amendment to inform the Commission's analysis.

Rule 608(b)(2) of Regulation NMS provides that the Commission ''shall approve a . . . proposed amendment to an effective national market system plan, with such changes or subject to such conditions as the Commission may deem necessary or appropriate, if it finds that such . . . amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.'' [19] Rule 608(b)(2) further provides that the Commission shall disapprove a proposed amendment if it does not make such a finding.[20] Pursuant to Rule 608(b)(2)(i) of Regulation NMS,[21] the Commission is providing notice of the grounds for possible disapproval under consideration:

- Whether the Proposed Amendment is consistent with Rule 608 of Regulation NMS. Specifically, whether the Proposed Amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.[22]
- Whether, consistent with Rule 603(a) and 614(d)(3) of Regulation NMS, the Proposed Amendment provides for the distribution of information with respect to quotations for and transactions in NMS stocks on terms that are fair and reasonable and not unreasonably discriminatory.[23]
- Whether the Proposed Amendment is consistent with Rule 608(a)(4)(C) of Regulation NMS requiring every amendment to a national market system plan be accompanied by, among other things, an analysis of the impact on competition of implementation of the amendment.[24]
- Whether the Proposed Amendment is consistent with Rule 608(a)(5) of Regulation NMS requiring every amendment to a national market system plan include a description of the manner in which any facility contemplated by the plan or amendment will be operated and further requiring that any such description include, to the extent applicable, the method by which any fees or charges collected on behalf of all of the sponsors and/or participants in connection with access to, or use of, any facility contemplated by the plan or amendment will be determined and imposed (including any provision for distribution of any net proceeds from such fees or charges to the sponsors and/or participants) and the amount of such fees or charge.[25]
- Whether modifications to the Proposed Amendment, or conditions to its approval, would be required to make the Proposed Amendment necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.[26]
- Whether the Proposed Amendment is consistent with Congress's finding, in Section 11A(1)(C)(iii) of the Act, that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to ensure ''the availability to brokers, dealers, and investors or information with respect to quotations for and transactions in securities.[27]
- Whether, consistent with the purposes of Section 11A(c)(1)(B) of the Act,[28] the Proposed Amendment's provisions are drafted to support the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions in NMS securities, and the fairness and usefulness of the form and content of such information.

Under the Commission's Rules of Practice, the ''burden to demonstrate that a NMS plan filing is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the plan participants that filed the NMS plan filing.'' [29] The description of the NMS plan filing, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding, and ''[a] mere assertion that the NMS plan filing is consistent with those requirements is not sufficient.'' [30] Any failure of the plan participants that filed the NMS plan filing to provide such detail and specificity may result in the Commission not having a sufficient basis to make an affirmative finding that the NMS plan filing is consistent with the Act and the applicable rules and regulations thereunder.[31]

IV. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and

[13] *See id.*

[14] *See id.* at 50939.

[15] *Id.*

[16] *Id.*

[17] 17 CFR 242.608(b)(2)(i).

[18] 17 CFR 201.700.

[19] 17 CFR 242.608(b)(2).

[20] *See id.*

[21] 17 CFR 242.608(b)(2)(i). *See also* Commission Rule of Practice 700(b)(2), 17 CFR 201.700(b)(2).

[22] *See* 17 CFR 242.608(b)(2).

[23] *See* 17 CFR 242.603(a), 614(d)(3).

[24] *See* 17 CFR 242.608(a)(4)(C).

[25] *See* 17 CFR 242.608(a)(5).

[26] *See* CFR 242.608(b)(2).

[27] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[28] 15 U.S.C. 78k–1(c)(1)(B).

[29] 17 CFR 201.700(b)(3)(ii).

[30] *Id.*

[31] *See id.*

arguments with respect to the issues identified above, as well as any other comments or concerns they may have regarding the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 11A or any other provision of the Act, or the rules and regulations thereunder, and the Commission asks that commenters address the sufficiency and merit of OPRA's statements in support of the Proposed Amendment.[32]

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 608(b)(2)(i) of Regulation NMS,[33] any request for an opportunity to make an oral presentation.[34]

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–OPRA–2023–01 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–OPRA–2023–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the Participants' principal offices. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright

protection. All submissions should refer to file number SR–OPRA–2023–01 and should be submitted on or before October 20, 2023. Rebuttal comments should be submitted by November 3, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21349 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

[32] *See* Notice, *supra* note 4, 88 FR at 30989.

[33] 17 CFR 242.608(b)(2)(i).

[34] Rule 700(c)(2) of the Commission's Rules of Practice provides that ''[t]he Commission, in its sole discretion, may determine whether any issues relevant to approval or disapproval would be facilitated by the opportunity for an oral presentation of views.'' 17 CFR 201.700(c)(2).

[35] 17 CFR 200.30–3(a)(85).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98511; File No. SR–CBOE–2023–053]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Automated Price Improvement Auction Rules

September 25, 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 September 20, 2023, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its automated price improvement auction rules. 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), 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 provisions in Rule 5.37 (Automated Price Improvement Mechanism (''AIM'' or ''AIM Auction'')) and Rule 5.38 (Complex Automated Improvement Mechanism (''C–AIM'' or ''C–AIM Auction'')) regarding concurrent AIM and C–AIM Auctions, respectively. The Exchange also proposes to update the provisions in those Rules regarding the permissible stop price.

By way of background, Rules 5.37 and 5.38 contain the requirements applicable to the execution of orders using AIM and C–AIM, respectively. The AIM and C–AIM auctions are electronic auctions intended to provide orders that Trading Permit Holders (''TPHs'') represent as agent (''Agency Orders'') with opportunities to receive price improvement (over the National Best Bid or Offer (''NBBO'') in AIM, or the synthetic best bid or offer (''SBBO'') on the Exchange in C–AIM). Upon submitting an Agency Order into an AIM or C–AIM auction, the initiating Trading Permit Holder (''Initiating TPH'') must also submit a contra-side second order (''Initiating Order'') for the

same size as the Agency Order. The Initiating Order guarantees that the Agency Order will receive an execution at no worse than the auction price (*i.e.,* acts as a stop). During an AIM or C–AIM Auction, market participants may submit responses to trade against the Agency Order. At the end of an auction, depending on the contra-side interest available, the Initiating Order may be allocated a certain percentage of the Agency Order.[5]

An Initiating TPH may initiate an AIM or C–AIM auction provided that the Agency Order is in a class and of sufficient size as determined by the Exchange.[6] Upon receipt of an Agency Order, the AIM or C–AIM auction process commences. Currently, under Rule 5.37(c)(1), for Agency Orders for less than 50 standard option contracts (or 500 mini-option contracts or 5,000 micro-option contracts), only one AIM Auction may be ongoing at any given time in a series, and AIM Auctions in the same series may not queue or overlap in any manner. One or more AIM Auctions in the same series for Agency Orders of 50 standard option contracts (or 500 mini-option contracts or 5,000 micro-option contracts) or more may occur at the same time. The Exchange proposes amending Rule 5.37(c)(1) to allow one or more AIM Auctions in the same series to occur at the same time for Agency Orders for less than 50 standard option contracts (or 500 mini-option contracts or 5,000 micro-option contracts). This would effectively allow for one or more AIM Auctions in the same series to occur at the same time for orders of all sizes. Concurrent AIM Auctions for these smaller-sized orders will occur in the same manner as concurrent AIM Auctions for orders of 50 or more contracts occur today.[7]

Similarly, under current Rule 5.38(c)(1)(A), with respect to Agency Orders for which the smallest leg is less than 50 standard option contracts (or 500 mini-option contracts or 5,000 micro-option contracts), only one C–AIM Auction may be ongoing at any given time in a complex strategy, and C–AIM Auctions in the same complex strategy may not queue or overlap in any manner. One or more C–AIM Auctions in the same complex strategy for Agency Orders for which the smallest leg is 50 standard option contracts (or 500 mini-option contracts or 5,000 micro-option contracts) or more may occur at the same time. The Exchange proposes amending Rule 5.38(c)(1)(A) to allow one or more C–AIM Auctions in a complex strategy to occur at the same time for Agency Orders for which the smallest leg is less than 50 standard option contracts (or 500 mini-option contracts or 5,000 micro-option contracts). This would effectively allow for one or more C–AIM Auctions in the same complex strategy to occur at the same time for complex orders of all sizes. The Exchange believes this proposed functionality will allow more AIM Auctions in the same series and more C–AIM Auctions in the same complex strategy to be conducted, thereby increasing opportunities for price improvement on the Exchange to the benefit of all market participants.

Currently, if an Agency Order of fewer than 50 contracts (or 500 mini-option contracts or 5,000 micro-option contracts) is submitted to AIM or C–AIM while an AIM or C–AIM Auction is in progress, the Agency order is rejected. The proposal to add concurrent AIM and C–AIM Auctions for Agency Orders of any size, including for Agency Orders of fewer than 50 contracts (or 500 mini-option contracts or 5,000 micro-option contracts), would also prevent the rejection of these smaller Agency Orders that occurs when such smaller Agency Orders are submitted while an AIM or C–AIM Auction is in progress. By eliminating this rejection scenario, the Exchange would increase execution and price improvement opportunities for these smaller Agency orders to the benefit of investors.

The Exchange notes that allowing more than one price improvement auction at a time in the same series for paired agency orders of fewer than 50 contracts is not new or novel and is current functionality on at least one other options exchange.[8] While the Exchange is unaware of another options exchange that offers concurrent price improvement auctions for orders in complex strategies for which the smallest leg is fewer than 50 contracts, other options exchanges (as well as the Exchange) permit simple price improvement auctions to occur simultaneously with complex price improvement auctions for complex strategies involving the same series, with no size restrictions.[9] Having simple price improvement auctions in multiple legs of a complex strategy in progress at the same time as a complex price improvement auction for that complex strategy for orders of any size is similar to two complex price improvement auctions in the same complex strategy being in progress at the same time. Additionally, the benefits of allowing concurrent price improvement auctions for simple orders of all sizes and complex strategies with 50 contracts in the smallest leg or more (as described above) would apply to concurrent price improvement auctions for complex strategies with fewer than 50 contracts in the smallest leg. Specifically, allowing concurrent C–AIM Auctions in the same complex strategy if the smallest leg has fewer than 50 contracts would benefit investors because it would afford smaller-sized complex orders increased opportunities to solicit price-improving auction interest. The Exchange further believes this proposed change would provide additional benefits to customers, as smaller-sized orders tend to represent retail interest, and could improve the customer experience on the Exchange by increasing trading opportunities in the C–AIM Auctions.

The proposal to allow concurrent AIM and C–AIM Auctions for Agency Orders for less than 50 contracts (or 500 mini-option contracts or 5,000 micro-option contracts) in the same series or complex strategy, respectively, would benefit investors because it would afford smaller-sized Agency Orders increased opportunities for price improvement, including because such smaller Agency Orders would no longer be rejected if submitted while an AIM or C–AIM Auction is in progress.

The Exchange will continue to protect smaller-sized simple Agency Orders in minimum increment-wide [10] markets by

[5] *See generally* Rules 5.37(e) and 5.38(e).

[6] *See* Rules 5.37(a) and 5.38(a), respectively.

[7] *See* Rules 5.37(c)(1) (which provides that if there is more than one AIM Auction in a series underway at a time, those auctions will conclude sequentially based on the exact time each auction commenced, including if they are terminated early pursuant to Rule 5.37(d)); and Rule 5.38(c)(1)(B) and (C) (which provides that if there is more than one C–AIM Auction in a complex strategy underway at a time, those auctions will conclude sequentially based on the exact time each auction commenced, including if they are terminated early pursuant to Rule 5.38(d)).

[8] *See, e.g.,* NYSE American LLC (''NYSE American'') Rule 971.1NYP(c) (as recently amended) (see Securities Exchange Act Release No. 97938 (July 18, 2023), 88 FR 47536 (July 24, 2023) (SR–NYSEAMER–2023–35) (permitting concurrent simple price improvement auctions).

[9] *See, e.g.,* NYSE American Rule 971.1NYP, Commentary .01; BOX Exchange LLC (''BOX'') Rules 7150, IM–7150–1 and 7245, IM–7245–2; and Nasdaq ISE, LLC (''ISE'') Options 3, Sections 11(g) and 13, Supplementary Material .04.

[10] The Exchange proposes to amend Rule 5.37(b)(1) to require the stop price be at least one minimum increment better than the then-current NBBO if the NBBO width equals the minimum increment rather than $0.01. The purpose of this provision is to require this price improvement if the width of the NBBO is as narrow as possible. However, if the minimum increment for a class is, for example, $0.05, it would not be possible to price improve penny-wide market in the permissible minimum increment of $0.05. The proposed rule change will ensure that smaller-sized orders receive this price improvement when the NBBO is as narrow as possible, as intended.

requiring price improvement of at least one minimum increment for such orders and rejecting such orders in minimum increment-wide markets that do not provide for such price improvement.[11] Additionally, the Exchange will continue to protect Priority Customers on the Simple Book by requiring price improvement of at least one minimum increment better than the SBBO if the applicable side of the BBO on any component of the complex Agency Order complex strategy represents a Priority Customer on the Simple Book.[12] These protections would apply when the proposed concurrent Auctions are occurring. Thus, the Exchange believes this proposed change should allow the Exchange to better compete for auction-related order flow that may lead to an increase in Exchange volume, while continuing to ensure that displayed customer interest on the Book is protected, to the benefit of all market participants.

The Exchange believes that its System has sufficient capacity to process a large volume of concurrent AIM and C–AIM Auctions for Agency Orders of any size, including for Agency Orders of fewer than 50 contracts (or 500 mini-option contracts or 5,000 micro-option contracts).

Additionally, the Exchange proposes to amend Rule 5.38(c)(1)(B) related to early termination priority in the event of concurrent AIM and C–AIM Auctions. Currently, if the System receives a simple order that causes AIM and C–AIM (or multiple AIM and/or C–AIM) Auctions to end in early termination, the System first processes AIM Auctions (in price-time priority) and then processes C–AIM Auctions (in price-time priority). The Exchange proposes to update Rule 5.38(c)(1)(B) to provide for the processing of early terminations in time priority in these instances. Under the proposed rule, if the System receives a simple order that causes AIM and C–AIM (or multiple AIM and/or C–AIM) Auctions to end in early termination, the System will continue to first process AIM Auctions (sequentially based on the exact time each AIM Auction commenced) and then process C–AIM Auctions (sequentially based on the exact time each C–AIM Auction commenced), which is consistent with the priority the System processes concurrent AIM Auctions and concurrent C–AIM Auctions.

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.[13] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [14] 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) [15] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposal to permit concurrent AIM and C–AIM Auctions for Agency Orders for less than 50 contracts (or 500 mini-option contracts or 5,000 micro-option contracts) in the same series or complex strategy, respectively, would remove impediments to and perfect the mechanisms of a free and open market and a national market system because it would extend concurrent auction functionality to smaller-sized Agency Orders. The Exchange also believes this proposed change is non-controversial because it does not raise any issues that differ from those previously considered when the Exchange and other options exchanges adopted this functionality for larger-sized agency orders submitted to price improvement auctions, or when another options exchange adopted this functionality (pursuant to an immediately effective, noncontroversial rule filing) for smaller-sized simple agency orders submitted into a price improvement auction.[16] The Exchange believes the proposal will benefit investors because it would afford smaller-sized Agency Orders increased opportunity to solicit price-improving auction interest. The Exchange further believes that this proposed rule change would provide additional benefits to customers, as smaller-sized Agency Orders tend to represent retail interest, and could improve the customer experience on the Exchange by increasing trading opportunities in AIM and C–AIM Auctions. Notwithstanding the proposal to allow concurrent AIM auctions for smaller-sized Agency Orders, the Exchange would continue to protect customer interest on the simple Book by requiring price improvement over the BBO to initiate an Auction for smaller-sized Agency Orders and rejecting such orders in increment wide markets when price improvement is not possible. Additionally, the Exchange will continue to protect Priority Customers on the Simple Book by requiring price improvement of at least one minimum increment better than the SBBO if the applicable side of the BBO on any component of the complex Agency Order complex strategy represents a Priority Customer on the Simple Book.[17]

Further, the Exchange believes the proposed new functionality to allow concurrent AIM and C–AIM auctions for Agency Orders of any size is consistent with the Act, as the proposed rule changes will prevent the rejection of these smaller Agency Orders that occurs when such smaller Agency Orders are submitted while an AIM or C–AIM Auction is in progress, which the Exchange believes will increase execution opportunities for these smaller Agency orders to the benefit of investors. For example, in July 2023, the new functionality would have provided investors with additional price improvement and execution opportunities via approximately 6,000 additional AIM or C–AIM Auctions that were otherwise rejected due to current concurrency limitations.

The Exchange also believes this proposed new functionality to allow concurrent AIM and C–AIM auctions for Agency Orders of any size should promote and foster competition and provide more options contracts with the opportunity for price improvement, which should benefit all market participants. In addition, this proposed change may lead to an increase in Exchange volume and should allow the Exchange to better compete against other markets that permit overlapping price improvement auctions, while continuing to ensure that displayed customer interest on the simple Book is protected. The proposed enhancement to allow concurrent auctions for Agency Orders of any size would be a

[11] *See* Rule 5.37(b)(1). The proposed rule change continues to provide price improvement assurances for those for buy (sell) Agency Orders submitted for AIM Auction processing with less than 50 standard option contracts (or 500 mini-option contracts or 5,000 micro-option contracts) and NBBO width of $0.01, pursuant to Rule 5.37(b)(1)(A), which remains unchanged.

[12] *See* Rule 5.38(b)(1).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *Id.*

[16] *See supra* note 8.

[17] *See supra* note 12.

competitive change and may make the Exchange a more attractive venue for auction-related order flow. As noted above, the Exchange believes that its trading platform has sufficient capacity to process a large volume of concurrent Auctions for Agency Orders of any size, including for Agency Orders of fewer than 50 contracts (or 500 mini-option contracts or 5,000 micro-option contracts).

Further, the Exchange believes its proposal to amend its AIM Rules to require the stop price be at least one minimum increment better than the then-current NBBO if the NBBO width equals the minimum increment for the class rather than $0.01 would remove impediments to and perfect the mechanisms of a free and open market and a national market system. As stated above, the purpose of this provision is to require this price improvement if the width of the NBBO is as narrow as possible. However, if the minimum increment for a class is, for example, $0.05, it would not be possible to price improve penny-wide market in the permissible minimum increment of $0.05. The Exchange believes the proposal, which is consistent with the original intention of current AIM stop price rules (which permit the Exchange to determine different AIM minimum increments for classes), will ensure that smaller-sized orders receive this price improvement when the NBBO is as narrow as possible, to the benefit of the marketplace and investors.

Finally, the Exchange believes the proposed rule change related to the processing of AIM and C–AIM Auctions in the event of early termination will promote just and equitable principles of trade, in accordance with the Act. The Exchange believes processing concurrent AIM and C–AIM Auctions that end in early termination in time priority is a fair and equitable process, and consistent with the priority applicable to concurrent AIM Auctions and concurrent C–AIM Auctions when they are terminated early.

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. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it will apply uniformly to TPHs. The proposed rule change will result in smaller orders receiving the same opportunities for execution and price improvement through AIM and C–AIM that are already afforded to larger orders, which are not subject to the concurrency restriction. As noted above, the proposed rule change to require the stop price in AIM Auctions be at least one minimum increment better than the then-current NBBO if the NBBO width equals the minimum increment for the class rather than $0.01 will ensure that smaller-sized orders receive this price improvement when the NBBO is as narrow as possible, which the Exchange believes will result in orders in all classes receiving the same price improvement opportunities through AIM and C–AIM in a manner consistent with the applicable minimum increment. Further, the Exchange does not believe the proposed rule change related to the processing of AIM and C–AIM Auctions in the event of early termination will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as it will apply in the same manner to all Agency Orders.

Additionally, the Exchange notes that participation in the AIM and C–AIM Auctions is completely voluntary. The Exchange believes all market participants, particular those that submit smaller orders, may benefit from any additional liquidity, execution opportunities, and price improvement in the AIM and C–AIM Auctions that may result from the proposed rule change.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. The Exchange believes this proposed rule change would promote fair competition among the options exchanges and establish more uniform functionality across the various price improvement auctions offered by other options exchanges. The proposed functionality may lead to an increase in Exchange volume and should allow the Exchange to better compete against other options markets that already offer similar price improvement mechanisms and for this reason the proposal does not create an undue burden on intermarket competition. By contrast, not having the proposed functionality places the Exchange at a competitive disadvantage vis-à-vis other exchanges that offer similar price improvement mechanisms. As noted above, another options exchange adopted this functionality (pursuant to an immediately effective, noncontroversial rule filing) to allow for concurrent price improvement auctions for smaller-sized simple agency orders,[18] and other options exchanges (as well as the Exchange) permit simple price improvement auctions to occur simultaneously with complex price improvement auctions for complex strategies involving the same series, with no size restrictions.[19]

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6)[21] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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:

[18] *See supra* note 8.

[19] *See supra* note 9.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CBOE–2023–053 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–CBOE–2023–053. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CBOE–2023–053 and should be submitted on or before October 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21347 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–824; OMB Control No. 3235–0500]

Submission for OMB Review; Comment Request; Extension: Rule 608

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 608 (17 CFR 242.608) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 608 specifies procedures for filing or amending national market system plans (''NMS Plans''). Self-regulatory organizations (''SROs'') filing a new NMS Plan must submit the text of the NMS Plan to the Commission, along with a statement of purpose, and, if applicable, specified supporting materials that may include: (1) a copy of all governing or constituent documents, (2) a description of the manner in which the NMS Plan, and any facility or procedure contemplated by the NMS Plan, will be implemented, (3) a listing of all significant phases of development and implementation contemplated by the NMS Plan, including a projected completion date for each phase, (4) an analysis of the competitive impact of implementing the NMS Plan, (5) a description of any written agreements or understandings between or among plan participants or sponsors relating to interpretations of the NMS Plan or conditions for becoming a plan participant or sponsor, and (6) a description of the manner in which any facility contemplated by the NMS Plan shall be operated. Participants or sponsors to the NMS Plan must ensure that a current and complete version of the NMS Plan is posted on a designated website or a plan website after being notified by the Commission that the NMS Plan is effective. Each plan participant or sponsor must also provide a link on its own website to the current website to the current version of the NMS Plan.

The Commission estimates that the creation and submission of a new NMS Plan and any related materials would result in an average aggregate burden of approximately 850 hours per year (25 SROs × 34 hours = 850 hours). The Commission further estimates an average aggregate burden of approximately 125 hours per year (25 SROs × 5 hours = 125 hours), for each of the SROs to keep a current and complete version of the NMS Plan posted on a designated website or a plan website, and to provide a link to the current version of the NMS Plan on its own website. In addition, the Commission estimates that the creation of a new NMS Plan and any related materials would result in an average aggregate cost of approximately $150,000 per year (25 SROs × $6,000 = $150,000).

SROs proposing to amend an existing NMS Plan must submit the text of the amendment to the Commission, along with a statement of purpose, and, if applicable, the supporting materials described above, as well as a statement that the amendment has been approved by the plan participants or sponsors in accordance with the terms of the NMS Plan. Participants or sponsors to the NMS Plan must ensure that any proposed amendments are posted to a designated website or a plan website after filing the amendments with the Commission and that those websites are updated to reflect the current status of the amendment and the NMS Plan. Each plan participant or sponsor must also provide a link on its own website to the current version of the NMS Plan. The Commission estimates that the creation and submission of NMS Plan amendments and any related materials would result in an average aggregate burden of approximately 11,050 hours per year (25 SROs × 442 hours = 11,050 hours). The Commission further estimates an average aggregate burden of approximately 124 hours per year (25 SROs × 4.94 hours = 123.5 hours rounded up to 124) for SROs to post any pending NMS Plan amendments to a designated website or a plan website and to update such websites to reflect the current status of the amendment and the NMS Plan. In addition, the Commission estimates that the creation of an NMS Plan amendment and any related materials would result in an average aggregate cost of approximately $325,000 per year (25 SROs × $13,000 = $325,000).

Finally, to the extent that a plan processor is required for any facility contemplated by a NMS Plan, the plan participants or sponsors must file with the Commission a statement identifying the plan processor selected, describing the material terms under which the plan processor is to serve, and indicating the

solicitation efforts, if any, for alternative plan processors, the alternatives considered, and the reasons for the selection of the plan processor. The Commission estimates that the preparation and materials related to the selection of a plan processor would result in an average aggregate burden of approximately 283 hours per year (25 SROs × 11.33 hours = 283.33 rounded down to 233). In addition, the Commission estimates that the preparation and submission of materials related to the selection of a plan processor would result in an average aggregate cost of approximately $8,333 per year (25 SROs × $333.33 = $8,333.33 rounded down to $8,333).

The above estimates result in a total annual industry burden of approximately 12,432 hours (850 + 125 + 11,050 + 124 + 283) and a total annual industry cost of approximately $483,333 ($150,000 + $325,000 + $8,333).

Compliance with Rule 608 is mandatory. The text of the NMS Plans and any amendments will not be confidential but published on a designated website or a plan website. To the extent that Rule 608 requires the SROs to submit confidential information to the Commission, that information will be kept confidential subject to the provisions of applicable law.[1] The SROs are required by law to retain the records and information that are collected pursuant to Rule 608 for a period of not less than 5 years, the first 2 years in an easily accessible place.[2] Rule 608 does not affect this existing requirement.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by October 30, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

[1] *See, e.g.,* 5 U.S.C. 552 *et seq.;* 15 U.S.C. 78x (governing the public availability of information obtained by the Commission).

[2] *See* 17 CFR 240.17a–1(b).

Dated: September 26, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21427 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98496; File No. SR–ICC–2023–012]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the Stress Testing Framework

September 25, 2023.

I. Introduction

On August 8, 2023, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to update its Stress Testing Framework (''STF''). The proposed rule change was published for comment in the **Federal Register** on August 21, 2023.[3] The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICC is registered with the Commission as a clearing agency for the purpose of clearing credit default swap (''CDS'') contracts. ICC clears CDS contracts for its members, which it refers to as Clearing Participants.[4] Clearing CDS contracts for Clearing Participants presents certain risks to ICC, such as exposure to systemic risk, which may include, but is not limited to, historic and current market volatility, and fluctuating interest rates. ICC measures and attempts to protect against such systemic risk by performing stress tests and, at times, adjusting the parameters underlying these stress-testing scenarios.

This proposed rule change aims to update two parameters incorporated into several of ICC's stress-testing scenarios. The parameters relate to the interest rate sensitivity analysis applied to two sets of historically observed, extreme but plausible market scenarios described in ICC's STF, and measure the magnitude of interest rate shocks during the applicable stressed periods used to estimate average haircut values of certain government securities. In particular, ICC proposes to change the stress period of the default-free Euro discount interest rate curve used in ICC's interest rate sensitivity analysis and revise the description of the credit crisis period for the default-free U.S. Dollar discount interest rate curve.

Currently under the STF, Section 11, which describes ICC's interest rate sensitivity analysis, incorporates two currency-specific stress test parallel shifts (*i.e.,* up and down) of the default-free discount interest rate for both CDS and CDS Index Options instruments. The magnitude of the interest rate stress scenarios reflects the largest shock, estimated using the collateral haircut model, during a selected stress period for the applicable sovereign debt. The current stress period of the default-free Euro discount interest rate curve references the ''western European credit'' crisis period and specifies exact start and end dates between 2011 and 2012. The selected stress periods listed in Section 11 are subject to periodic review. Following such a review, ICC proposes to update the stress period used to shock the Euro default-free discount interest rate by replacing the current language with ''2022/2023 inflation'' crisis period and not specifying start and end dates.

ICC states that changing the stress period of the default-free Euro discount interest rate curve would more accurately reflect the current volatile interest rate period, which began in 2022 and continues into 2023 due to the fast pace of U.S. Dollar and Euro interest rate increases.[5] According to ICC, the impact to the Euro interest rate volatility has been significant because of the sudden and rapid increases in Euro interest rates by the European Central Bank in an effort to curb multi-decade high inflation.[6] ICC indicates that the interest rate volatility observed during the ongoing ''2022/2023 inflation'' crisis period is greater than that observed during the 2011–2012 ''western European credit'' crisis period currently listed in the STF because the collateral haircuts observed in 2022–2023 exceed those detected in 2011–2012.[7] ICC has

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the Stress Testing Framework; Exchange Act Release No. 98140 (Aug. 15, 2023); 88 FR 56899 (Aug. 21, 2023) (File No. SR–ICC–2023–012) (''Notice'').

[4] Capitalized terms not otherwise defined herein have the meanings assigned to them in ICC's Clearing Rules.

[5] Notice, at 56899.

[6] *Id.*

[7] *Id.*

set an internal start date for the ''2022/2023 inflation'' crisis period. However, as the 2022–2023 period of volatility remains ongoing, ICC states that it will continue to monitor interest rate volatility for any new volatility peak observed in the current ''2022/2023 inflation'' crisis period for the default-free Euro discount interest curve.

Additionally, ICC proposes to make an analogous clarifying language change to the identification of the default-free U.S. Dollar discount interest rate curve in Section 11 of the STF. Specifically, the proposed change would remove the exact start and end dates of the credit crisis period from Section 11 and replace them with the description written as the ''2008/2009'' credit crisis period. The exact start and end dates of the ''2008/2009'' credit crisis period are listed in Section 5 of STF and would remain unchanged. This proposed rule change would not alter the time span or affect any other characteristic of the parameter covering the ''2008/2009'' credit crisis period for the default-free U.S. Dollar discount interest rate curve.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[8] For the reasons discussed below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[9] and Rule 17Ad-22(e)(4)(ii) and (vi) thereunder.[10]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.[11]

The proposed rule change would update the period covering the default-free Euro discount interest curve, which is part of the interest rate sensitivity analysis applied to several of ICC's stress-testing scenarios in its STF. Specifically, the proposed 2022/2023 inflation crisis period, which is ongoing, has exhibited greater interest rate volatility than that observed during the 2011–2012 western European credit crisis period. The Commission believes that this proposed rule change would provide a more accurate magnitude of the largest shock to the applicable sovereign debt used as part of the parameters underlying ICC's stress scenarios. Recalibrating the magnitude of the largest shock would enhance ICC's ability to identify and measure the risk of a credit exposure to defaulting Clearing Participants, which should, in turn, increase the likelihood that ICC calculates and collects sufficient financial resources to mitigate this potential exposure and enhance ICC's ability to manage a default by continuing to promptly and accurately clear and settle securities transactions.

Additionally, ICC's proposal to streamline the description of the 2008/2009 credit crisis period applicable to the default-free U.S. dollar interest rate curve would provide consistency to the language relevant to the interest rate sensitivity analysis in the STF. This, in turn, would assist in facilitating the execution of the various stress tests, thus helping to ensure the adequacy of systemic risk protections through appropriate financial resource collection during a Clearing Participant default, and promoting the prompt and accurate clearance and settlement of securities transactions.

For these reasons, the Commission believes the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act.[12]

B. Consistency With Rule 17Ad–22(e)(4)(ii) and (vi)

Rule 17Ad–22(e)(4)(ii) requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed, as applicable, to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposure for ICC in extreme but plausible market conditions.[13] Rule 17Ad–22(e)(4)(vi)[14] requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed, as applicable, to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by testing the sufficiency of its total financial resources available to meet the minimum financial resource requirements of Rule 17Ad–22(e)(4)(ii).[15]

The Commission believes that replacing the 2011–2012 western European credit crisis period with the 2022/2023 inflation crisis period relating to the default-free Euro discount interest rate curve used for interest rate sensitivity analysis would provide a more effective measurement of the required shock in stress testing. This updated measurement may better ensure ICC's ability to monitor and manage its credit exposures and to maintain additional financial resources to enable it to cover a wide range of foreseeable stress scenarios. Likewise, the Commission believes that the simplified description of the 2008/2009 credit crisis period applicable to the default-free U.S. dollar interest rate curve would enhance the readability and usability of the STF, thereby enhancing the documentation for its users and helping ensure that it remains transparent and consistent to support the effectiveness of ICC's risk management system.

For these reasons, the Commission believes that the proposed rule changes are therefore consistent with the requirements of Rules 17Ad–22(e)(4)(ii) and (e)(4)(vi).[16]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act,[17] and Rule 17Ad–22(e)(4)(ii) and (vi) thereunder.[18]

It is therefore ordered pursuant to Section 19(b)(2) of the Act[19] that the proposed rule change (SR–ICC–2023–012), be, and hereby is, approved.[20]

[8] 15 U.S.C. 78s(b)(2)(C).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 240.17Ad–22(e)(4)(ii) and (vi).

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] *Id.*

[13] 17 CFR 240.17Ad–22(e)(4)(ii).

[14] 17 CFR 240.17Ad–22(e)(4)(vi).

[15] 17 CFR 240.17Ad–22(e)(4)(ii).

[16] 17 CFR 240.17Ad–22(e)(4)(ii) and (vi).

[17] 15 U.S.C. 78q–1(b)(3)(F).

[18] 17 CFR 240.17Ad–22(e)(4)(ii) and (vi).

[19] 15 U.S.C. 78s(b)(2).

[20] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21340 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–422, OMB Control No. 3235–0471]

Submission for OMB Review; Comment Request; Extension: Rule 15c1–5

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 15c1–5 (17 CFR 240.15c1–5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15c1–5 states that any broker-dealer controlled by, controlling, or under common control with the issuer of a security that the broker-dealer is trying to sell to or buy from a customer must give the customer written notification disclosing the control relationship at or before completion of the transaction. The Commission estimates that 175 respondents provide notifications annually under Rule 15c1–5 and that each respondent would spend approximately 10 hours per year complying with the requirements of the rule for a total burden of approximately 1,750 hours per year. There is no retention period requirement under Rule 15c1–5. This Rule does not involve the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by October 30, 2023 to

(i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: September 26, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21429 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98508; File No. SR–NCC–2023–007]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change by National Securities Clearing Corporation To Modify the Amended and Restated Stock Options and Futures Settlement Agreement and Make Certain Revisions to the NSCC Rules

September 25, 2023.

On August 10, 2023, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2023–003 pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4[2] thereunder to modify the Amended and Restated Stock Options and Futures Settlement Agreement between NSCC and The Options Clearing Corporation and make certain related revisions to Rule 18, Procedure III and Addendum K of the NSCC Rules & Procedures. The proposed rule change was published for public comment in the **Federal Register** on August 30, 2023.[3] The Commission has received no comments regarding the proposal described in the proposed rule change.

Section 19(b)(2)(i) of the Exchange Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved unless the Commission extends the period within which it must act as provided in Section 19(b)(2)(ii) of the Exchange Act.[5] Section 19(b)(2)(ii) of the Exchange Act allows the Commission to designate a longer period for review (up to 90 days from the publication of notice of the filing of a proposed rule change) if the Commission finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents.[6]

The 45th day after publication of the Notice of Filing is October 14, 2023. In order to provide the Commission with sufficient time to consider the Proposed Rule Change, the Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change and therefore is extending this 45-day time period.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Exchange Act,[7] designates November 28, 2023, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule change SR–NCC–2023–007.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21345 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98505; File No. SR–OCC–2023–007]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Concerning Modifications to the Amended and Restated Stock Options and Futures Settlement Agreement Between the Options Clearing Corporation and the National Securities Clearing Corporation

September 25, 2023.

On August 10, 2023, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 98213 (Aug. 24, 2023), 88 FR 59968 (Aug. 30, 2023) (File No. SR–NSCC–2023–007) (''Notice of Filing'').

[4] 15 U.S.C. 78s(b)(2)(i).

[5] 15 U.S.C. 78 s(b)(2)(ii).

[6] *Id.*

[7] *Id.*

[8] 17 CFR 200.30–3(a)(31).

Commission (''Commission'') the proposed rule change SR–OCC–2023–007 (''Proposed Rule Change'') pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4[2] thereunder to modify the Amended and Restated Stock Options and Futures Settlement Agreement dated August 5, 2017 between OCC and National Securities Clearing Corporation and make certain revisions to OCC By-Laws, OCC Rules, OCC's Comprehensive Stress Testing & Clearing Fund Methodology, and Liquidity Risk Management Description and OCC's Liquidity Risk Management Framework in connection with the proposed modifications to the Existing Accord.[3] The Proposed Rule Change was published for public comment in the **Federal Register** on August 30, 2023.[4] The Commission has received no comments regarding the Proposed Rule Change.

Section 19(b)(2)(i) of the Exchange Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved unless the Commission extends the period within which it must act as provided in Section 19(b)(2)(ii) of the Exchange Act.[6] Section 19(b)(2)(ii) of the Exchange Act allows the Commission to designate a longer period for review (up to 90 days from the publication of notice of the filing of a proposed rule change) if the Commission finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents.[7]

The 45th day after publication of the Notice of Filing is October 14, 2023. In order to provide the Commission with sufficient time to consider the Proposed Rule Change, the Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change and therefore is extending this 45-day time period.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Exchange Act,[8] designates November 28, 2023, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule change SR–OCC–2023–007.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21344 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Notice of Filing *infra* note 4, at 88 FR 59976.

[4] Securities Exchange Act Release No. 98215 (Aug. 24, 2023), 88 FR 59976 (Aug. 30, 2023) (File No. SR–OCC–2023–007) (''Notice of Filing''). OCC also filed a related advance notice (SR–OCC–2023–801) (''Advance Notice'') with the Commission pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 and Rule 19b–4(n)(1)(i) under the Exchange Act. 12 U.S.C. 5465(e)(1). 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively. The Advance Notice was published in the **Federal Register** on August 30, 2023. Securities Exchange Act Release No. 98214 (Aug. 24, 2023), 88 FR 59988 (Aug. 30, 2023) (File No. SR–OCC–2023–801).

[5] 15 U.S.C. 78s(b)(2)(i).

[6] 15 U.S.C. 78 s(b)(2)(ii).

[7] *Id.*

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98502; File No. SR–CBOE–2023–051]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rules Regarding Early Termination of Complex Order Auctions

September 25, 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 September 15, 2023, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') 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 Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[8] *Id.*

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its rules regarding early termination of complex order auctions. 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), 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 certain of its rules regarding the early termination of complex order auctions. The Exchange offers several auction mechanisms for complex orders, including the Complex Order Auction (''COA''),[5] the Complex Automated Improvement Mechanism (''C–AIM''),[6] and the Complex Solicitation Auction Mechanism (''C–SAM'').[7] The Rules regarding each of these complex order auction mechanisms contain provisions that describe what events may cause the applicable auction to terminate prior to the end of the auction timer.[8] These provisions generally correspond to the pricing requirements to begin an auction. This ensures that the auction will not continue if the market changes in a manner that would create a situation in which the auction would not have been permitted to begin.

[5] *See* Rule 5.33(d).

[6] *See* Rule 5.38.

[7] *See* Rule 5.40.

[8] *See* Rules 5.33(d)(3), 5.38(d)(1), and 5.40(d)(1).

COA

COA is a single-sided auction in which an eligible order will be exposed for price improvement. Specifically, upon receipt of a COA-eligible order,[9] the System sends a COA auction message to subscribers of data feeds that deliver COA auction messages, which message identifies certain terms of the COA-eligible order. To be COA-eligible, a buy (sell) order must, among other things, have a price equal to or higher (lower) than the synthetic best offer (bid) (''SBO (SBB)''), provided that if any of the bids or offers on the simple book that comprise the SBB (SBO) is represented by a Priority Customer order,[10] the price must be at least one minimum increment higher (lower) than the SBB (SBO).[11] Corresponding to this requirement, current Rule 5.33(d)(3)(B) and (C) provide that a COA will terminate prior to the end of the COA auction timer:

- when the System receives a non-Priority Customer Order in a leg of the complex order that would improve the SBBO on the same side as the COA-eligible order that initiated the COA to a price better than the COA price, in which case the System terminates the COA and processes the COA-eligible order pursuant to subparagraph (5) below, enters the new order in the simple book, and updates the SBBO; or
- if the System receives a Priority Customer Order in a leg of the complex order that would join or improve the SBBO on the same side as the COA-eligible order that initiated the COA to a price equal to or better than the COA price, in which case the System terminates the COA and processes the COA-eligible order pursuant to subparagraph (5) below, enters the new order in the simple book, and updates the SBBO.

The Exchange proposes to amend Rule 5.33(d)(3)(B) and (C) to provide that any incoming order may cause the SBBO to change in a manner that causes a COA auction to terminate early. Specifically, the proposed rule change amends these Rule provisions to state the following:

(B) when the System receives an order in a leg of the complex order that would improve the SBBO on the same side as the COA-eligible order that initiated the COA to a price better than the COA price, in which case the System terminates the COA and processes the COA-eligible order pursuant to [Rule 5.33(d)(5)], enters the new order in the Simple Book, and updates the SBBO; or

(C) if the System receives an order in a leg of the complex order that would join or improve the SBBO on the same side as the COA-eligible order that initiated the COA to a price equal to the COA price and cause any component of the SBBO to be represented by a Priority Customer, in which case the System terminates the COA and processes the COA-eligible order pursuant to [Rule 5.33(d)(5)], enters the new order in the Simple Book, and updates the SBBO.

Pursuant to the proposed change to subparagraph (B), a COA will continue to terminate early if the Exchange receives any simple order (Priority or non-Priority Customer) that would cause the SBBO to be better than the stop price (as covered by current subparagraphs (B) and (C)). Pursuant to the proposed change to subparagraph (C), a COA will terminate early if the Exchange receives any simple order (not just a Priority Customer order as set forth in current subparagraph (C)) that would cause the SBBO to be equal to the stop price and have the best bid or offer (''BBO'') of a leg represented by a Priority Customer order.

C–AIM and C–SAM

C–AIM permits a Trading Permit Holder (''TPH'') to submit for execution a complex order it represents as agent (''Agency Order'') against principal or solicited interest (an ''Initiating Order'') that stops the entire Agency Order at a price that satisfies specified criteria.[12] Similarly, C–SAM permits a TPH to submit for execution an Agency Order against an Initiating Order (that, unlike for C–AIM, may only be solicited) that stops the entire Agency Order at a price that satisfies specified criteria.[13] With respect to both C–AIM and C–SAM, the stop price for the buy (sell) Agency Order must, among other things:

- with respect to same-side simple orders, be (a) at least one minimum increment better than the SBB (SBO) if the applicable side of the BBO on any component of the complex strategy is represented by a Priority Customer order on the simple book; or (b) at or better than the SBB (SBO) if the applicable side of the BBO of each component of the complex strategy is represented by a non-Priority Customer order or quote on the simple book; and
- with respect to opposite-side simple orders, be (a) at least one minimum increment better than the SBO (SBB) if the BBO of any component of the complex strategy is represented by a Priority Customer order on the simple book; or (b) at or better than the SBO (SBB) if the BBO of each component of the complex strategy represents a non-Priority Customer quote or order on the simple book.[14]

Corresponding to these requirements, current Rules 5.38(d)(1)(d), (e), and (f) and 5.40(d)(1)(d), (e), and (f)[15] provide that a C–AIM or C–SAM auction, respectively, will terminate prior to the end of the C–AIM or C–SAM, as applicable, auction timer:

- upon receipt by the System of an unrelated non-Priority Customer order or quote that would post to the simple book and cause the SBBO on the same side as the Agency Order to be better than the stop price;
- upon receipt by the System of an unrelated Priority Customer order in any component of the complex strategy that would post to the simple book and cause the SBBO on the same side as the Agency Order to be equal to or better than the stop price; or
- upon receipt by the System of a simple non-Priority Customer order that would cause the SBBO on the opposite side of the Agency Order to be better than the stop price, or a Priority Customer order that would cause the SBBO on the opposite side of the Agency Order to be equal to or better than the stop price.

The Exchange proposes to amend Rules 5.38(d)(1)(d), (e), and (f) ((D) and (E) as proposed) and 5.40(d)(1)(d), (e), and (f) ((D) and (E) as proposed) to provide that any incoming order may cause the SBBO to change in a manner that causes a C–AIM or C–SAM auction, respectively, to terminate early. Specifically, the proposed rule change amends these Rule provisions to state the following:

(D) upon receipt by the System of an unrelated order or quote that would post to

[9] *See* Rule 5.33(b)(5) (definition of COA-eligible order).

[10] A ''Priority Customer'' means a person or entity that is Public Customer and not a Professional. A ''Public Customer'' means a person that is not a broker-dealer, and a ''Professional'' means any person or entity that (a) is not a broker or dealer in securities, and (b) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 1.1 (definitions of Priority Customer, Public Customer, and Professional).

[11] *See* Rule 5.33(b)(5) (definition of COA-eligible order).

[12] *See generally* Rule 5.38; *see also* Rule 5.38(a) (C–AIM auction eligibility requirements) and (b) (C–AIM stop price requirements).

[13] *See generally* Rule 5.40; *see also* Rule 5.40(a) (C–SAM auction eligibility requirements) and (b) (C–SAM stop price requirements). The primary differences between C–AIM and C–SAM are that (a) the minimum size (as determined by the Exchange) of an order submitted into C–SAM cannot be smaller than 500 option contracts on the smallest leg, while the minimum size of a C–AIM order may not be smaller than one contract (*compare* Rules 5.38(a)(3) and 5.40(a)(3)) and (b) and that execution of orders submitted into C–SAM are handled as all-or-none orders.

[14] *See* Rules 5.38(b)(1) and (3) and 5.40(b)(1) and (3).

[15] The proposed rule change capitalizes the lettering of the subparagraphs in Rules 5.38(d)(1) and 5.40(d)(1) to conform to the lettering used throughout the Rulebook.

the Simple Book and cause the SBBO on the same side as the Agency Order to be (i) better than the stop price, or (ii) equal to the stop price if any component of the SBBO is then represented by a Priority Customer;

(E) upon receipt by the System of an unrelated order that would post to the Simple Book and cause the SBBO on the opposite side of the Agency Order to be (i) better than the stop price, or (ii) equal to the stop price if any component of the SBBO is then represented by a Priority Customer;

Pursuant to the proposed subparagraph (D) of each of Rules 5.38(d)(1) and 5.40(d)(1), a C–AIM or C–SAM will continue to terminate early if the Exchange receives any simple order (Priority or non-Priority Customer) that would cause the SBBO on the same side as the Agency Order to be better than the stop price (as covered by current subparagraphs (d) and (e)). Additionally, pursuant to the proposed subparagraph (D) of each of Rules 5.38(d)(1) and 5.40(d)(1), a C–AIM or C–SAM will terminate early if the Exchange receives any simple order (not just a Priority Customer order as set forth in current subparagraph (e)) that would cause the SBBO on the same side as the Agency Order to be equal to the stop price if any component of the SBBO is then represented by a Priority Customer order. Similarly, pursuant to proposed subparagraph (E) of each of Rules 5.38(d)(1) and 5.40(d)(1), a C–AIM or C–SAM will continue to terminate early if the Exchange receives any simple order (Priority or non-Priority Customer) that would cause the SBBO on the opposite side of the Agency Order to be better than the stop price (as covered by current subparagraph (f)). Additionally, pursuant to proposed subparagraph (E) of each of Rules 5.38(d)(1) and 5.40(d)(1), a C–AIM or C–SAM will terminate early if the Exchange receives any simple order (not just a Priority Customer order as set forth in current subparagraph (f)) that would cause the SBBO on the opposite side of the Agency Order to be equal to the stop price if any component of the SBBO is then represented by a Priority Customer order.

Purpose of Proposed Rule Changes

One purpose of the COA, C–AIM, and C–SAM auction price requirements is to protect interest on the simple book, including Priority Customer interest, as execution of the auction or Agency order, as applicable, could not occur at a price outside the SBBO or at the same price as the SBBO if it includes simple Priority Customer interest on any leg. The purpose of early termination provisions corresponding to those auction price requirements is to terminate an auction if the market changes in a manner that would create a situation in which the auction would not have been permitted to begin. The proposed changes to each of the COA, C–AIM, and C–SAM early termination provisions add the scenario in which the applicable auction will terminate early if the Exchange receives a Non-Priority Customer order that would cause the SBBO to be equal to the stop price and have the BBO of a leg represented by a Priority Customer order (as current rules contemplate only that an incoming Priority Customer order could cause the SBBO to improve to a price equal to the auction price). This situation could occur, for example, if there was a Priority Customer order representing the BBO of one leg of the component strategy at the beginning of the auction but the stop price was better than the SBBO, and an incoming order (Priority or Non-Priority Customer) during the auction caused the SBBO to change such that it then equals the stop price with a Priority Customer order representing one of the legs. The Exchange believes these proposed changes will further protect Priority Customer orders on the simple book by ensuring that no execution within COA, C–AIM, or C–SAM will occur at a price that equals the SBBO (and the applicable side) if the BBO of any component of the applicable complex strategy is represented by a Priority Customer, regardless of what type of incoming order caused the change in the SBBO.

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.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] 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)[18] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and protect investors, because it will update scenarios that will cause complex auctions to terminate early in a manner that protects interest resting on the simple book, including Priority Customer interest. The proposed changes to each of the COA, C–AIM, and C–SAM early termination provisions add the scenario in which the applicable auction will terminate early if the Exchange receives a Non-Priority Customer order that would cause the SBBO to be equal to the stop price and have the BBO of a leg represented by a Priority Customer order. These proposed changes will eliminate a current gap in current Rules, which contemplate only that an incoming Priority Customer order could cause the SBBO to improve to a price equal to the auction price). These proposed rule changes increase consistency among the auction price requirement and early termination provisions, thus removing impediments to a free and open market. As a result, the Exchange believes the proposed rule change will further protect Priority Customer orders on the simple book by ensuring that no execution within a COA, C–AIM, or C–SAM auction will occur at a price that equals the SBBO (and the applicable side) if the BBO of any component of the applicable complex strategy is represented by a Priority Customer, regardless of what type of incoming order caused the change in the SBBO, which ultimately protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposed changes will apply to all TPHs in the same manner. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

furtherance of the purposes of the Act, as it relates solely to provisions regarding when complex auctions occurring on the Exchange may terminate early. The proposed rule changes are not intended to be competitive.

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

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) [20] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will 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–CBOE–2023–051 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–CBOE–2023–051. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CBOE–2023–051 and should be submitted on or before October 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21342 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98513; File No. SR–EMERALD–2023–25]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Provide Eligible Members Another Opportunity To Elect To Participate in the Maintaining Qualifications Program

September 25, 2023.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 22, 2023, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Interpretation and Policy .01 to Exchange Rule 1903, Continuing Education, to provide eligible Members [3] another opportunity to elect to participate in the Maintaining Qualifications Program (''MQP'').

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/emerald-options/rule-filings,* at MIAX Emerald's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

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 Interpretation and Policy .01 to Exchange Rule 1903, Continuing Education, to provide eligible Members another opportunity to elect to participate in the Maintaining Qualifications Program (''MQP'').

The continuing education program for registered persons of Members (''CE Program'') currently requires registered persons to complete continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element is administered by the Financial Industry Regulatory Authority, Inc. (''FINRA''). FINRA, on behalf of the Exchange, focuses on regulatory requirements and industry standards, while the Firm Element is provided by each firm and focuses on securities products, services and strategies the firm offers, firm policies and industry trends.

The CE Program is codified under the rules of the self-regulatory organizations. The CE Program for registered persons of Exchange Members is codified under Exchange Rule 1903, Continuing Education.[4] This proposed rule change is based on a filing recently submitted by FINRA and is intended to harmonize the Exchange's continuing education rules with those of FINRA so as to promote uniform standards across the securities industry.[5] The proposed rule change is discussed in detail below.

On June 10, 2022, the Exchange amended Exchange Rule 1900, Registration Requirements, and Exchange Rule 1903, Continuing Education, 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.[6] By that time, however, the First Enrollment Period, defined below, had expired, leaving many eligible individuals from being able to participate in the MQP. This proposed rule change will provide those eligible individuals a second opportunity to elect to participate in the MQP to maintain their qualification.

Prior to the MQP, individuals whose registrations as representative 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.[7] Specifically, the MQP 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 Exchange Rule 1903, Interpretation and Policy .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 July 1, 2022 (the implementation date of Exchange MQP); and (2) individuals who were participating in the Financial Services Affiliate Waiver Program (''FSAWP'') under Exchange Rule 1900, Interpretation and Policy .09, Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member, immediately prior to July 1, 2022 (collectively, ''Look-Back Individuals'').[8]

In the FINRA Rule Change, FINRA noted that in Regulatory Notice 21–41 (November 17, 2021), it announced that Look-Back Individuals who wanted to take part in FINRA's 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.[9]

In the FINRA Rule Change, FINRA further noted that 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 noted that it also 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.[10] 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 recently amended its rules to provide Look-Back Individuals a second opportunity to elect to participate in the MQP (the ''Second Enrollment Period''). For similar reasons, the Exchange is also proposing to amend its rules to provide Look-Back Individuals with a Second Enrollment Period.[11] The Exchange's Second Enrollment Period will be between the effective date of this

[4] *See also* Exchange Rule 1903, Interpretation and Policy .06, All Registered Persons Must Satisfy the Regulatory Element of Continuing Education.

[5] *See* Securities Exchange Act Release No. 97184 (Mar. 22, 2023), 88 FR 18359 (Mar. 28, 2023) (SR–FINRA–2023–005) (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) (''FINRA Rule Change'').

[6] *See* Securities Exchange Act Release No. 95177 (June 29, 2022), 87 FR 40324 (July 6, 2022) (SR–EMERALD–2022–22) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 1900, Registration Requirements, Exchange Rule 1903, Continuing Education Requirements, and Exchange Rule 1904, Electronic Filing Requirements for Uniform Forms).

[7] 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).

[8] 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. The Exchange stopped accepting new participants for the FSAWP beginning on July 1, 2022; however, individuals who were already participating in the FSAWP prior to that date had the option of continuing in the FSAWP.

[9] Look-Back Individuals were able to notify FINRA of their election to participate in the MQP through their FinPro accounts.

[10] According to FINRA, 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.

[11] 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 July 1, 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.

proposed rule change 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.[12]

The Exchange believes that Look-Back Individuals generally have greater awareness of the MQP, including due to news coverage, since the program's launch.[13] The Exchange believes that greater public awareness of the MQP, coupled with a four-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.[14] The Exchange 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.[15]

[12] 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.

[13] *See, e.g.,* Joanne Cleaver, FINRA Sets Big Change in Motion with New Options for Licensing Grace Period, InvestmentNews (June 23, 2022), *https://www.investmentnews.com/finra-sets-big-change-in-motion-with-new-option-forlicensing-grace-period-222942.*

[14] In the FINRA Rule Change, FINRA noted that it 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 further noted that it will inform Look-Back Individuals if it determines to provide an alternative enrollment method.

[15] For example, if a Look-Back Individual terminated a registration category on July 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 July 1, 2020, and ending no later than July 1, 2025. If the individuals does not reregister with a member firm by July 1, 2025, the individual would need to requalify by examination or obtain an examination waiver in order to reregister after that date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] 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)[18] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange's rule proposal is intended to harmonize the Exchange's supervision rules, specifically with respect to the continuing education requirements with those of FINRA, on which they are based. Consequently, the proposed change will conform the Exchange's rules to changes made to corresponding FINRA rules, thus promoting application of consistent regulatory standards with respect to rules that FINRA enforces pursuant to its regulatory services agreement with the Exchange.

The Exchange 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 Members 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 Members, providing investors with the advantage of greater experience among the Members working in the industry. The Exchange believes that providing Look-Back Individuals a second opportunity to elect to participate in the MQP will further these goals and objectives.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change, which harmonizes its rules with the recent rule change adopted by FINRA, will reduce the regulatory burden placed on market participants engaged in trading activities across different markets. The Exchange believes that the harmonization of the CE program requirements across the various markets will reduce burdens on competition by removing impediments to participation in the national market system and promoting competition among participants across the multiple national securities exchanges. Additionally, and as stated above, FINRA has recently submitted a filing to provide eligible individuals another opportunity to elect to participate in the Maintaining Qualifications Program in the same manner.[19]

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

MIAX Emerald has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21] Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[22]

[19] *See supra* note 5.

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed under Rule 19b–4(f)(6) [23] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[24] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. MIAX Emerald has indicated that the immediate operation of the proposed rule change is appropriate because it would allow the Exchange to implement the proposed changes to its continuing education rules without delay, thereby eliminating the possibility of a significant regulatory gap between the FINRA rules and the Exchange rules, providing more uniform standards across the securities industry, and helping to avoid confusion for Exchange members that are also FINRA members. MIAX Emerald also noted that FINRA plans to conduct additional public outreach efforts to promote awareness of the MQP and the availability of the Second Enrollment Period among Look-Back Individuals. Therefore, MIAX Emerald indicated that the immediate operation of the proposed rule change is also appropriate because it would help to further notify Look-Back Individuals of their options and provide additional time for them to consider whether they wish to participate in the MQP before the December 31, 2023 deadline. 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.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] 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).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–EMERALD–2023–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–EMERALD–2023–25. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–EMERALD–2023–25 and should be submitted on or before October 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21348 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98495; File No. SR–NYSENAT–2023–20]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing of Proposed Change To Amend the NYSE National Schedule of Fees and Rebates

September 25, 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 September 12, 2023, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE National Schedule of Fees and Rebates (''Fee Schedule'') to reflect fees and credits relating to the NYSE National Retail Liquidity Program. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to reflect fees and credits relating to the newly implemented NYSE National Retail Liquidity Program (the ''RLP'' or ''Program'').[3] The Exchange proposes to implement the fee change effective September 12, 2023.[4]

Background

The Exchange operates in a highly competitive market. The Securities and Exchange Commission (''Commission'') has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. 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.'' [5]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [6] Indeed, equity trading is currently dispersed across 16 exchanges,[7] numerous alternative trading systems,[8] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 18% market share.[9] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's share of executed volume of equity trades in Tapes A, B and C securities combined is less than 1%.[10]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. Accordingly, competitive forces constrain exchange 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 utilizes a ''taker-maker'' or inverted fee model to attract orders that provide liquidity at the most competitive prices. Under the taker-maker model, offering rebates for taking (or removing) liquidity increases the likelihood that market participants will send orders to the Exchange to trade with liquidity providers' orders. This increased taker order flow provides an incentive for market participants to send orders that provide liquidity. The Exchange generally charges fees for order flow that provides liquidity. These fees are reasonable due to the additional marketable interest (in part attracted by the Exchange's rebate to remove liquidity) with which those order flow providers can trade.

Proposed Rule Change

The Commission recently noticed for immediate effectiveness the Exchange's proposed rule change to introduce the RLP.[11] The purpose of the program is to attract retail order flow to the Exchange and allow such order flow to receive potential price improvement at the midpoint or better. The RLP allows ETP Holders to provide potential price improvement to retail investor orders in the form of a non-displayed order that is priced at the less aggressive of the midpoint of the PBBO or its limit price, called a Retail Price Improvement Order (''RPI Order'').[12] When there is an RPI Order in a particular security that is eligible to trade at the midpoint of the PBBO, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier, that such interest exists.[13] Retail Member Organizations (''RMOs'') would be able to submit a Retail Order to the Exchange, which interacts, to the extent possible, with available contra-side RPI Orders and may interact with other liquidity on the Exchange, depending on the Retail Order's instructions.[14] The segmentation in the Program would allow retail order flow to receive potential price improvement as a result of that order flow being deemed more desirable by liquidity providers.

In connection with the implementation of the RLP,[15] the Exchange proposes to amend the Fee Schedule to provide for fees and credits for orders executed in the Program. The Exchange proposes to modify the Fee Schedule to add new Section D.3., ''Fees and credits applicable to executions in the Retail Liquidity Program,'' and proposes that Section D.3. would provide for the following fees and credits:

- For RPI Orders that execute against a Retail Order submitted by an RMO: no fee or credit will apply.
- For other (non-RPI Order) liquidity that executes against a Retail Order submitted by an RMO: the existing Tiered or Basic Rates set forth in the Fee Schedule, based on a firm's qualifying levels, will apply.
- For a Retail Order submitted by an RMO that executes against an RPI Order or against other non-RPI Order interest that is priced better than the PBBO (''price-improving interest''): a ($0.0003) credit will apply.
- For a Type 2 Retail Order submitted by an RMO that executes against non-price-improving interest: the existing Tiered or Basic Rates set forth in the Fee Schedule, based on a firm's qualifying levels, will apply.

The Program is intended to attract retail order flow to the Exchange, including by facilitating opportunities for such order flow to receive potential price improvement at the midpoint or better, and to promote competition for retail order flow among execution venues (including those that also offer

[3] *See* Securities Exchange Act Release No. 98169 (August 18, 2023), 88 FR 57508 (August 23, 2023) (SR–NYSENAT–2023–17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.44).

[4] The Exchange previously filed to amend the Fee Schedule on August 28, 2023 (SR–NYSENAT–2023–19) and withdrew such filing on September 12, 2023.

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (''Regulation NMS'').

[6] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[7] *See* Cboe U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[8] *See* FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is available at *https://www.sec.gov/foia/docs/atslist.htm.*

[9] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[10] *See id.*

[11] *See* note 4, *supra. See also* Rule 7.44.

[12] *See* Rule 7.44(a)(3).

[13] *See* Rule 7.44(e).

[14] *See* Rules 7.44(a)(1) (defining RMO), 7.44(a)(2) (defining Retail Order), and 7.44(f) (describing the operation and designation of Retail Orders).

[15] *See https://www.nyse.com/trader-update/history#110000643248.*

retail price improvement programs), which would benefit retail investors by creating additional price improvement opportunities for marketable retail order flow on a public exchange. ETP Holders are not required to submit Retail Orders or RPI Orders, and all ETP Holders that participate in the Program would be subject to the same fees and credits, as outlined above. The Exchange believes that the proposed credits offered to Retail Orders that execute against RPI Orders or other price-improving interest would encourage ETP Holders to direct retail order flow to the Exchange, and that the amounts of those credits are reasonable and consistent with the range of credits currently offered to non-Retail Orders that remove liquidity on the Exchange.[16] The Exchange notes that this proposed credit for Retail Orders is also comparable to the credit previously offered by the Exchange's affiliate, NYSE Arca, Inc. (''NYSE Arca''), for orders in its now-discontinued Retail Liquidity Program.[17] The Exchange also believes that its proposal to not apply any fee or credit to RPI Orders that execute against Retail Orders could encourage ETP Holders to submit RPI Orders for execution against Retail Orders, thereby promoting additional trading opportunities for retail order flow on the Exchange. The Exchange notes that not applying any fee or credit to RPI Orders is also consistent with pricing in the Retail Liquidity Program offered by its affiliate, New York Stock Exchange LLC (''NYSE'').[18] Finally, the Exchange believes that applying existing Tiered or Basic Rates, based on a firm's qualifying levels, to non-RPI Order interest that executes against a Retail Order and to Type 2 Retail Orders [19] that execute against non-price-improving interest is reasonable, as those ETP Holders would continue to receive the rates for which they qualify under the current Fee Schedule. The Exchange notes that applying Tiered or Basic rates to non-RPI Order interest that executes against a Retail Order is consistent with pricing previously associated with the NYSE Arca Retail Liquidity Program.[20] With respect to Type 2 Retail Orders, because a remainder quantity of the order may execute against non-price-improving interest on the Exchange Book outside of the Program, the Exchange believes it is reasonable to apply Tiered or Basic rates to such portion of the Retail Order, consistent with the pricing currently offered to other removing orders that do not receive price improvement. The Exchange notes that this treatment of Type 2 Retail Orders is also consistent with the fee structure that was in place for the NYSE Arca Retail Liquidity Program, which offered an identical Type 2 Retail Order.[21]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[22] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[23] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

As discussed above, the Exchange operates in a highly fragmented and competitive market. 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.'' [24]

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 or reduce use of certain categories of products, in response to fee changes. Accordingly, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

In particular, the Exchange believes the proposed rule change is a reasonable means to encourage ETP Holders to participate in the RLP. The Program is offered by the Exchange on a voluntary basis; no rule or regulation requires that the Exchange offer it, and nor does any rule or regulation require market participants to participate in it. Instead, the Program is intended to encourage opportunities for retail order flow to receive price improvement at the midpoint or better, including by offering credits to Retail Orders submitted by RMOs for execution in the Program (and consistent with the Exchange's taker-maker model, in which offering rebates for taking (or removing) liquidity increases the likelihood that market participants will direct order flow to the Exchange). The Exchange further believes that its proposal to apply Tiered or Basic rates to the portion of Type 2 Retail Orders that execute against non-price-improving interest is reasonable, as it would apply standard pricing to the portion of the order that executes outside of the Retail Liquidity Program (and is consistent with the Exchange's current pricing for liquidity removing orders that do not receive price improvement). The Exchange also believes the amounts of the credits offered are reasonable and consistent with the Exchange's existing fee structure, and are in line with credits currently offered by the Exchange to other non-retail liquidity removing orders.[25] The Exchange also believes that the proposed fees and credits that would apply to RPI Orders and other (non-RPI Order) price-improving interest that executes against Retail Orders are reasonable and designed to encourage ETP Holders to direct orders

[16] *See* NYSE National Fee Schedule, Section D.2. (Rates for Removing Liquidity (Per Share)).

[17] *See* Securities Exchange Act Release No. 98347 (September 11, 2023) (SR–NYSEARCA–2023–59) (describing fee structure for former NYSE Arca Retail Liquidity Program, in which NYSE Arca—as a maker-taker market—conversely offered a $0.0003 credit to RPI Order executions against Retail Orders).

[18] *See* NYSE Price List, Fees and Credits Applicable to Executions in the Retail Liquidity Program (no charge for a Retail Order submitted by a Retail Member Organization that executes against an RPI or MPL Order).

[19] A Type 2 Retail Order trades first with available RPI Orders and all other orders with a working price below (above) the PBO (PBB) on the Exchange Book. Any remaining quantity of a Type 2 Retail Order may then trade with orders on the Exchange Book at prices equal to or above (below) the PBO (PBB). Type 2 Retail Orders differ from Type 1 Retail Orders (which trade only with available RPI Orders and all other orders with a working price below (above) or equal to the midpoint of the PBBO on the Exchange Book) because they would be able to trade first with all contra-side orders inside the PBBO and then would have the opportunity to trade as a Limit IOC Order, as such order is defined in Rule 7.31. *See* Rules 7.44(f)(1) (defining Type 1 Retail Order) and 7.44(f)(2) (defining Type 2 Retail Order). Thus, a Type 2 Retail Order may be subject to two different rates, as proposed. If, for example, 100 shares of a Type 2 Retail Order for 200 shares executes against an RPI Order, a ($0.0003) credit would apply to that portion of the order; if the remaining 100 shares of the Type Retail Order then executes against non-price-improving interest on the Exchange Book, that portion of the order would receive the Tiered or Basic rates for which the entering firm qualifies.

[20] *See* note 18, *supra* (describing fee structure for NYSE Arca Retail Liquidity Program, in which non-displayed liquidity and displayable odd lot interest priced better than the PBBO (*i.e.,* non-RPI Order interest) that executes against a Retail Order would receive Tiered or Basic Rates based on the firm's qualification for such levels).

[21] *See id.* (''An RMO Retail Order that executes outside of the Retail Liquidity Program . . . receives pricing applicable to Tiered or Standard Rates in the Fee Schedule.'')

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(4) and (5).

[24] *See* note 6, *supra.*

[25] *See* note 17, *supra.*

to the Exchange to interact with retail order flow. Finally, as noted above, the Exchange's proposed fees and credits are consistent with the fee structures associated with the Retail Liquidity Programs currently or previously offered by its affiliated exchanges.[26]

The Exchange believes its proposal equitably allocates its fees among its market participants. The Exchange believes that the proposal represents an equitable allocation of fees because it would apply uniformly to all ETP Holders, in that all ETP Holders that participate in the RLP would be subject to the same fees and credits. While the Exchange has no way of knowing whether this proposed rule change would encourage ETP Holders to participate in the Program, the Exchange believes that the fees and credits associated with the Program are designed to incentivize ETP Holders to direct both Retail Orders and RPI Orders to the Program by offering credits to Retail Orders that execute against RPI Orders or other price-improving interest, applying the Tiered or Basic Rates for which an ETP Holder qualifies to non-RPI Order executions against Retail Orders and Type 2 Retail Order executions against non-price-improving interest, and not applying any fee or credit to RPI Orders that execute against Retail Orders. The Exchange further notes that, as discussed above, the proposed fee structure for the Program is consistent with the fees and credits associated with the Retail Liquidity Programs currently or previously offered by its affiliated exchanges.[27]

The Exchange believes that the proposal is not unfairly discriminatory, as the proposed fees and credits would apply to all similarly situated ETP Holders. Moreover, this proposed rule change neither targets nor will it have a disparate impact on any particular category of market participant. Instead, the proposed changes are designed to encourage ETP Holders to participate in the Program, which could promote additional price improvements for retail order flow as well as competition between the Exchange and other execution venues. The Exchange believes that this proposal does not permit unfair discrimination because the changes described in this proposal would be applied to all ETP Holders that participate in the Program. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by the proposed allocation of fees, and any ETP Holder's participation in the Program is voluntary. The Exchange further believes that the proposed rule change would not permit unfair discrimination among ETP Holders because the Program would be available to all ETP Holders on an equal basis. The Exchange believes that the fees and credits associated with the Program are designed to incentivize ETP Holders to participate in the Program by offering credits to Retail Orders that execute against RPI Orders or other price-improving interest and not applying any fee or credit to RPI Orders that execute against Retail Orders. The Exchange also believes it is not unfairly discriminatory to apply Tiered or Basic rates to non-RPI Order executions against Retail Orders and to the portion of Type 2 Retail Orders that execute against non-price-improving interest outside of the Program, as those ETP Holders would receive existing pricing for which they qualify. The Exchange also notes that the proposed fees and credits for the Program are, as discussed above, consistent with the fees and credits associated with the Retail Liquidity Programs currently or previously offered by the Exchange's affiliates.[28]

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[29] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [30]

Intramarket Competition. The Exchange believes the proposed amendment to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change is a reasonable means to encourage ETP Holders to participate in the RLP. All ETP Holders that qualify as RMOs may send Retail Orders to the Exchange, and all ETP Holders may direct RPI Orders or other interest to the Exchange. The Program is offered by the Exchange on a voluntary basis, and no rule or regulation requires that the Exchange offer it. Likewise, ETP Holders have the choice whether or not to participate in the Program and those that choose not to participate will not be impacted by the proposed rule change. The Exchange also does not believe the proposed rule change would impact intramarket competition, as the proposed rule change would apply equally to all ETP Holders that choose to direct order flow to the Program, and therefore the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading is currently less than 1%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition. In addition, as noted above, the Exchange believes that the Program could promote competition between the Exchange and other execution venues.

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 foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) [31] of the Act and paragraph

[26] *See also* notes 18, 19, 21 & 22, *supra.*

[27] *See also id.*

[28] *See also* note 27, *supra.*

[29] 15 U.S.C. 78f(b)(8).

[30] *See* note 6, *supra.*

[31] 15 U.S.C. 78s(b)(3)(A).

(f) thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSENAT–2023–20 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–NYSENAT–2023–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSENAT–2023–20 and should be submitted on or before October 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–21339 Filed 9–28–23; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Information on SBA Secondary Market Program

AGENCY: Small Business Administration.

ACTION: Update to secondary market program.

SUMMARY: The purpose of this Notice is to inform the public that the Small Business Administration (SBA) is making no change to the current minimum maturity ratio of 92.0% for both SBA Standard Pools and Weighted-Average Coupon (WAC) Pools. The minimum maturity ratio covers the estimated cost of the timely payment guaranty for newly formed SBA 7(a) loan pools. This update will be incorporated, as needed, into the SBA Secondary Market Program Guide and all other appropriate SBA Secondary Market documents.

DATES: The update will apply to SBA 7(a) loan pools with an issue date on or after October 1, 2023.

ADDRESSES: Address comments concerning this Notice to David Parrish, Chief Secondary Market Division, Office of Financial Assistance, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416; or *david.parrish@sba.gov.*

FOR FURTHER INFORMATION CONTACT: David Parrish, Chief Secondary Market Division, Office of Financial Assistance at (202) 205–6346; or *david.parrish@sba.gov.* If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: The Secondary Market Improvements Act of 1984, 15 U.S.C. 634(f) through (h), authorized SBA to guarantee the timely payment of principal and interest on Pool Certificates. A Pool Certificate represents a fractional undivided interest in a ''Pool,'' which is an aggregation of SBA guaranteed portions of loans made by SBA Lenders under section 7(a) of the Small Business Act, 15 U.S.C. 636(a). In order to support the timely payment guaranty requirement, SBA established the Master Reserve Fund (MRF), which serves as a mechanism to cover the cost of SBA's timely payment guaranty. Borrower payments on the guaranteed portions of pooled loans, as well as SBA guaranty payments on defaulted pooled loans, are deposited into the MRF. Funds are held in the MRF until distributions are made to investors (Registered Holders) of Pool Certificates. The interest earned on the borrower payments and the SBA guaranty payments deposited into the MRF supports the timely payments made to Registered Holders.

From time to time, SBA provides guidance to SBA Pool Assemblers on the required loan and pool characteristics necessary to form a Pool. These characteristics include, among other things, the minimum number of guaranteed portions of loans required to form a Pool, the allowable difference between the highest and lowest gross and net note rates of the guaranteed portions of loans in a Pool, and the minimum maturity ratio of the guaranteed portions of loans in a Pool. The minimum maturity ratio is equal to the ratio of the shortest and the longest remaining term to maturity of the guaranteed portions of loans in a Pool.

Based on SBA's expectations as to the performance of future Pools, SBA has determined that no change is necessary to the minimum maturity ratio from fiscal year 2023 for Pools formed on or after October 1, 2023. The minimum maturity ratio will remain at 92.0%. Therefore, effective October 1, 2023, all guaranteed portions of loans in Standard Pools and WAC Pools presented for settlement with SBA's Fiscal Transfer Agent will be required to have a minimum maturity ratio of at least 92.0%.

SBA will continue to monitor loan and pool characteristics and will provide notification of additional changes as necessary. It is important to note that there is no change to SBA's obligation to honor its guaranty of the amounts owed to Registered Holders of Pool Certificates and that such guaranty continues to be backed by the full faith and credit of the United States.

This program change will be incorporated as necessary into SBA's Secondary Market Guide and all other appropriate SBA Secondary Market documents. As indicated above, this change will be effective for Standard

[32] 17 CFR 200.30–3(a)(12).

Pools and WAC Pools with an issue date on or after October 1, 2023.

David Parrish,

Chief, Secondary Market Division.

[FR Doc. 2023–21549 Filed 9–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice:12200]

International Security Advisory Board (ISAB) Meeting Notice; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. 1009(a)(2), the Department of State announces a meeting of the International Security Advisory Board (ISAB) to take place on October 31, 2023, at the Department of State, Washington, DC.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. 1009(d), and 5 U.S.C. 552b(c)(1), it has been determined that this Board meeting will be closed to the public because the Board will be reviewing and discussing matters properly classified in accordance with Executive Order 13526. The purpose of the ISAB is to provide the Department with a continuing source of independent advice on all aspects of arms control, disarmament, nonproliferation, outer space, critical infrastructure, cybersecurity, the national security aspects of associated technologies, international security, and related aspects of public diplomacy. The agenda for this meeting will include classified discussions related to the Board's ongoing studies on current U.S. policy and issues regarding arms control, international security, nuclear proliferation, associated technologies, climate and energy security.

For more information, contact Michelle Dover, Executive Director of the International Security Advisory Board, Department of State, Washington, DC 20520, telephone: (202) 736–4930.

Michelle E. Dover,

Executive Director, International Security Advisory Board, Department of State.

[FR Doc. 2023–21472 Filed 9–28–23; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF STATE

[Public Notice: 12197]

30-Day Notice of Proposed Information Collection: Questionnaire—Loss of United States Nationality; Attestations

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 30 days for public comment.

DATES: Submit comments up to October 30, 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.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Questionnaire—Loss of United States Nationality; Attestations.
- *OMB Control Number:* 1405–0178.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS).
- *Form Number:* DS–4079.
- *Respondents:* United States Citizens.
- *Estimated Number of Respondents:* 4,850.
- *Estimated Number of Responses:* 4,850.
- *Average Time per Response:* 43 minutes.
- *Total Estimated Burden Time:* 3,475 hours.
- *Frequency:* Variable by country.
- *Obligation to Respond:* Voluntary, but if not completed, will not be eligible to request a Certificate of Loss of Nationality of the United States

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The purpose of the information requested on the DS–4079, ''Questionnaire—Loss of Nationality,'' is to assist the Department of State in determining whether a person who requests a Certificate of Loss of Nationality of the United States based on performance of a potentially expatriating act as defined in Immigration and Nationality Act (INA) Section 349(a)(1)–(5) (8 U.S.C. 1481) or other applicable statutes has met all legal requirements necessary for the U.S. Department of State to approve the request and issue a Certificate of Loss of Nationality of the United States in the requester's name. Immigration and Nationality Act (INA) section 104 (8 U.S.C. 1104); INA section 349 (8 U.S.C. 1481); INA section 350 (8 U.S.C. 1482) [repealed]; INA section 351 (8 U.S.C. 1483); INA section 356 (8 U.S.C. 1488); INA section 358 (8 U.S.C. 1501); and 22 CFR PART 50—Subpart C authorize the Department of State to collect this information.

Methodology

The Bureau of Consular Affairs will post this form on Department of State websites to give respondents the opportunity to complete the form online or print the form and fill it out manually and submit the form in person or by fax or mail.

Elizabeth M. Gracon,

Managing Director, Consular Affairs, Overseas Citizens Services, Department of State.

[FR Doc. 2023–21311 Filed 9–28–23; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 12201]

Certification Related to Foreign Military Financing for Colombia Under Section 7045(B)(2)(B) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2023

Pursuant to the authority vested in the Secretary of State, including under section 7045(b)(2)(B) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2023 (Div. K, Pub. L. 117–328), I hereby certify that:

(I) the Special Jurisdiction for Peace and other judicial authorities, as appropriate, are sentencing perpetrators of gross violations of human rights, including those with command responsibility, to deprivation of liberty;

(II) the Government of Colombia is making consistent progress in reducing threats and attacks against human rights defenders and other civil society activists, and judicial authorities are prosecuting and punishing those responsible for ordering and carrying out such attacks;

(III) the Government of Colombia is making consistent progress in protecting Afro-Colombian and Indigenous communities and is respecting their rights and territories;

(IV) senior military officers credibly alleged, or whose units are credibly alleged, to be responsible for ordering, committing, and covering up cases of false positives and other extrajudicial killings, or of committing other gross violations of human rights, or of conducting illegal communications intercepts or other illicit surveillance, are being held accountable, including removal from active duty if found guilty through criminal, administrative, or disciplinary proceedings; and

(V) the Colombian Armed Forces are cooperating fully with the requirements described in (I) through (IV) above.

This Certification shall be published in the **Federal Register** and shall be transmitted, along with the accompanying Memorandum of Justification, to Congress.

Dated: September 15, 2023.

Antony J. Blinken,

Secretary of State.

[FR Doc. 2023–21414 Filed 9–28–23; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF STATE

[Public Notice: 12194]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Bonnard's Worlds'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Bonnard's Worlds'' at the Kimbell Art Museum, Fort Worth, Texas; The Phillips Collection, Washington, District of Columbia; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–21480 Filed 9–28–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12193]

60-Day Notice of Proposed Information Collection: PEPFAR Program Expenditures

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to November 28, 2023.

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

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2023–0031'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: GHSD_FinancialOps@state.gov.*
- *Regular Mail:* Send written comments to: Bureau of Global Health Security & Diplomacy (S/GHSD), U.S. Department of State, SA–22, 1800 G Street NW, Suite 10300, Washington, DC 20006.
- *Fax:* 202–663–2979.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Irum Zaidi, 1800 G St. NW, Suite 10300, SA–22, Washington, DC 20006, who may be reached on 202–663–2588 or at *ZaidiIF@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* PEPFAR Program Expenditures.
- *OMB Control Number:* 1405–0208.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Office of the U.S. Global AIDS Coordinator and Health Diplomacy (S/GAC).
- *Form Number:* DS–4213.

• *Respondents:* Recipients of U.S. government funds appropriated to carry out the President's Emergency Plan for AIDS Relief (PEPFAR).
• *Estimated Number of Respondents:* 3,480.
• *Estimated Number of Responses:* 3,480.
• *Average Time per Response:* 20 hours per response.
• *Total Estimated Burden Time:* 68,750 hours.
• *Frequency:* Annually.
• *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
• Enhance the quality, utility, and clarity of the information to be collected.
• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The U.S. President's Emergency Plan for AIDS Relief (PEPFAR) was established through enactment of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act (Pub. L. 108–25), as amended by the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act (Pub. L. 110–293) (HIV/AIDS Leadership Act), as amended by the PEPFAR Stewardship and Oversight Act (Pub. L. 113–56), and as amended and reauthorized for a third time by the PEPFAR Extension Act (Pub. L. 115–305) to support the global response to HIV/AIDS. In order to improve program monitoring, PEPFAR added reporting of expenditures by program area to the current routine reporting of program results for the annual report. Data are collected from implementing partners in countries with PEPFAR programs using a standard tool (DS–4213) via an electronic web-based interface into which users upload data. These expenditures are analyzed by partner for all PEPFAR program areas. These analyses then feed into partner and program reviews at the country level for monitoring and evaluation on an ongoing basis. Summaries of these data provide key information about program costs under PEPFAR on a global level. Applying expenditure results will improve strategic budgeting, identification of efficient means of delivering services, and accuracy in defining program targets; and will inform allocation of resources to ensure the program is accountable and using public funds for maximum impact.

Methodology

Data will continue to be collected in a web-based interface available to all partners receiving funds under PEPFAR. After implementing Expenditure Reporting since 2012, we learned that implementing partners (IPs) prefer the Microsoft Excel template based data collection process. The requirements in the Excel template have been reduced with IP input to only request critical information. By being able to download a template, prime IPs responsible to complete the submission are more effectively able to collaborate quickly with other key personnel and coordinate with their subrecipients to enter the data for the full amount of PEPFAR funding expended during the prior fiscal year. This approach also proves helpful where internet connectivity is not strong. After completing the Excel template, IPs upload the data to an automated system that further checks the data entered for quality and completeness. Automated checks reduce the time needed by IPs to complete the data cleaning process. Aggregate data is available in a central system for analysis.

Brendan Garvin,

Director of Management and Budget, Bureau of Global Health Diplomacy and Security, Department of State.

[FR Doc. 2023–21309 Filed 9–28–23; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 12180]

Determination Under Section 506(a)(1) of the Foreign Assistance Act of 1961 To Provide Military Assistance to Ukraine

ACTION: Determination.

SUMMARY: The State Department is publishing a Determination signed by the Secretary of State on August 1, 2022.

SUPPLEMENTARY INFORMATION: Antony J. Blinken, Secretary of State, signed the following ''Determination Under Section 506(a)(1) of the Foreign Assistance Act of 1961 to Provide Military Assistance to Ukraine'' on August 1, 2022. The State Department maintains the original document.

Pursuant to the authority vested in me by section 506(a)(1) of the Foreign Assistance Act of 1961 (the ''Act'') (22 U.S.C. 2318(a)(1)) and Presidential Delegation of Authority dated August 1, 2022, I hereby determine that:

• an unforeseen emergency exists which requires immediate military assistance to Ukraine; and
• the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other provision of law.

I, therefore, pursuant to authority delegated to me by the President, direct the drawdown of up to $550 million in defense articles and services of the Department of Defense, and military education and training, under the authority of section 506(a)(1) of the Act to provide assistance to Ukraine. The Department of State will coordinate implementation of this drawdown.

This determination shall be reported to the Congress and published in the **Federal Register**.

Joshua Paul,

Office Director, Office of Congressional & Public Affairs, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 2023–21423 Filed 9–28–23; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 12192]

Private Sector Participation in Domestic and International Events on Spaceflight Safety, Sustainability, and Emerging Markets in Outer Space

ACTION: Notice.

SUMMARY: The U.S. Department of State seeks private sector participation in a series of domestic and international events promoting the safe and responsible exploration and use of outer. These events and the participation of the commercial space sector, academia and other non-governmental organizations will assist the Department of State in fulfilling its responsibilities pursuant to the 2020 National Space Policy and the 2021 United States Space Priorities Framework.

DATES: Participants will provide their perspectives on Department equities and/or serve as private sector advisors to U.S. delegations to one or more

workshops, meetings, symposia, and other international events related to safety, sustainability, responsible behavior, and emerging markets in outer space until December 31, 2024.

ADDRESSES: Solicitations for private sector participation in specific events, including event dates and locations, will be posted at least 30 days prior to the event on *https://www.state.gov/remarks-and-releases-bureau-of-oceans-and-international-environmental-and-scientific-affairs/.*

FOR FURTHER INFORMATION CONTACT: Ryan Guglietta, Foreign Affairs Officer, Office of Space Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20522, email *gugliettart@state.gov.*

SUPPLEMENTARY INFORMATION: Events will vary in location and format, to include fully online, hybrid, and in-person activities. Short notice modification of plans may be required in response to unpredictable factors. Meetings may be stand alone or on the margins of related events, which may include, but are not limited to, the United Nations Committee on the Peaceful Uses of Outer Space (UNCOPUOS) Scientific and Technical Subcommittee (STSC), the UNCOPUOS Legal Subcommittee (LSC), the UNCOPUOS plenary, the 2024 Summit of the Future, events organized by the UN Office of Outer Space Affairs, and other engagements. There may also be additional opportunities to provide expert views related to domestic policies and U.S. positions in other international diplomatic fora. Please note the limited number of slots for non-USG participation in many events.

Participants should focus on the following:

Safety: Identify key safety issues for crewed and/or uncrewed outer space operations. Discuss current attempts to address these issues and suggest new concerns that may develop as private sector space activities advance and evolve.

Sustainability: Explore efforts to promote responsible behavior in space. Examine best practices and guidelines aimed at preserving the outer space environment for future space investment, exploration and use. In particular, implementation of the 2019 UNCOPUOS Long-Term Sustainability (LTS) guidelines and the multi-nation Artemis Accords should be considered.

Emerging Markets: Discuss the challenges to an economically viable space industry and how these challenges relate to the domestic regulatory and international governance frameworks. Share recent advances within the commercial space sector and how they may develop in the future. Evaluate how an expanding commercial sector may affect equities like terrestrial based astronomy, planetary protection, orbital debris mitigation, and other aspects of safe and sustainable operations in outer space.

Valda Vikmanis-Keller,

Director, Office of Space Affairs, Department of State.

[FR Doc. 2023–21537 Filed 9–28–23; 8:45 am]

BILLING CODE 4710–09–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2023–0011]

Applications for Inclusion on the Binational Panels Roster Under the United States-Mexico-Canada Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Invitation for applications.

SUMMARY: The United States-Mexico-Canada Agreement (USMCA) provides for the establishment of a roster of individuals to serve on binational panels convened to review final determinations in antidumping or countervailing duty (AD/CVD) proceedings and amendments to AD/CVD statutes of a USMCA Party. The United States annually renews its selections for the roster. The Office of the United States Trade Representative (USTR) invites applications from eligible individuals wishing to be included on the roster for the period April 1, 2024, through March 31, 2025.

DATES: USTR must receive your application by November 30, 2023.

ADDRESSES: You should submit your application through the Federal eRulemaking Portal: *http://www.regulations.gov* (*regs.gov*), using docket number USTR–2023–0011. Follow the instructions for submitting comments below.

FOR FURTHER INFORMATION CONTACT: Thor Petersen, Assistant General Counsel, *Thorvald.J.Petersen@ustr.eop.gov,* (202) 395–9599.

SUPPLEMENTARY INFORMATION:

A. Binational Panel AD/CVD Reviews Under the USMCA

Article 10.12 of the USMCA provides that a party involved in an AD/CVD proceeding may obtain review by a binational panel of a final AD/CVD determination of one USMCA Party with respect to the products of another USMCA Party. Binational panels decide whether AD/CVD determinations are in accordance with the domestic laws of the importing USMCA Party using the standard of review that would have been applied by a domestic court of the importing USMCA Party. A panel may uphold the AD/CVD determination, or may remand it to the national administering authority for action not inconsistent with the panel's decision. Panel decisions may be reviewed in specific circumstances by a three-member extraordinary challenge committee, selected from a separate roster composed of fifteen current or former judges.

Article 10.11 of the USMCA provides that a USMCA Party may refer an amendment to the AD/CVD statutes of another USMCA Party to a binational panel for a declaratory opinion as to whether the amendment is inconsistent with the General Agreement on Tariffs and Trade (GATT), the GATT Antidumping or Subsidies Codes, successor agreements, or the object and purpose of the USMCA with regard to the establishment of fair and predictable conditions for the liberalization of trade. If the panel finds that the amendment is inconsistent, the two USMCA Parties must consult and seek to achieve a mutually satisfactory solution.

B. Roster and Composition of Binational Panels

Annex 10–B.1 of the USMCA provides for the maintenance of a roster of at least 75 individuals for service on chapter 10 binational panels, with each USMCA Party selecting at least 25 individuals. A separate five-person panel is formed for each review of a final AD/CVD determination or statutory amendment. To form a panel, the two USMCA Parties involved each appoint two panelists, normally by drawing upon individuals from the roster. If the Parties cannot agree upon the fifth panelist, one of the Parties, decided by lot, selects the fifth panelist from the roster. The majority of individuals on each panel must consist of lawyers in good standing, and the chair of the panel must be a lawyer.

When there is a request to establish a panel, roster members from the two involved USMCA Parties will complete a disclosure form that is used to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of clients of the roster member and, if applicable, clients of the roster member's firm.

C. Criteria for Eligibility for Inclusion on Roster

The United States bases the selection of individuals for inclusion on the chapter 10 roster on the eligibility criteria set out in Annex 10–B.1 of the USMCA. Annex 10–B.1 provides that chapter 10 roster members must be citizens of a USMCA Party, must be of good character and of high standing and repute, and are to be chosen strictly on the basis of their objectivity, reliability, sound judgment, and general familiarity with international trade law. Aside from judges, roster members may not be affiliated with the governments of any of the three USMCA Parties. Annex 10–B.1 also provides that, to the fullest extent practicable, the roster shall include judges and former judges.

USTR is committed to diversity, equity, inclusion, and accessibility, and encourages all qualified individuals to apply.

D. Adherence to the USMCA Code of Conduct for Binational Panelists

The Code of Conduct under chapter 10 and chapter 31 (Dispute Settlement) (see *https://can-mex-usa-sec.org/secretariat/agreement-accord-acuerdo/usmca-aceum-tmec/code-code-codigo.aspx?lang=eng*), which was established pursuant to Article 10.17 of the USMCA, provides that current and former chapter 10 roster members ''shall avoid impropriety and the appearance of impropriety and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.'' The Code of Conduct also provides that candidates to serve on chapter 10 panels, as well as those who ultimately are selected to serve as panelists, have an obligation to ''disclose any interest, relationship or matter that is likely to affect [their] impartiality or independence, or that might reasonably create an appearance of impropriety or an apprehension of bias.'' Annex 10–B.1 of the USMCA provides that roster members may engage in other business while serving as panelists, subject to the Code of Conduct and provided that such business does not interfere with the performance of the panelist's duties. In particular, Annex 10–B.1 states that ''[w]hile acting as a panelist, a panelist may not appear as counsel before another panel.''

E. Procedures for Selection of Roster Members

Section 412 of the United States-Mexico-Canada Agreement Implementation Act (Pub. L. 116–113 (19 U.S.C. 4582)), establishes procedures for the selection by USTR of the individuals chosen by the United States for inclusion on the chapter 10 roster. The roster is renewed annually, and applies during the one-year period beginning April 1st of each calendar year.

Under Section 412, an interagency committee chaired by USTR prepares a preliminary list of candidates eligible for inclusion on the chapter 10 roster. After consultation with the Senate Committee on Finance and the House Committee on Ways and Means, the U.S. Trade Representative selects the final list of individuals chosen by the United States for inclusion on the chapter 10 roster.

F. Applications

USTR invites eligible individuals who wish to be included on the chapter 10 roster for the period April 1, 2024, through March 31, 2025, to submit applications. In order to be assured of consideration, USTR must receive your application by November 30, 2023. Submit applications electronically to *regs.gov,* using docket number USTR–2023–0011. For technical questions on submitting comments on *regs.gov,* please contact the *regs.gov* help desk at *regulationshelpdesk@gsa.gov* or 1–866–498–2945. If you are unable to submit through *regs.gov* after seeking assistance from the help desk, please contact Sandy McKinzy at (202) 395–9483 before transmitting your application and in advance of the deadline.

In order to ensure the timely receipt and consideration of applications, USTR strongly encourages applicants to make on-line submissions, using *regs.gov*. To apply via *regs.gov,* enter docket number USTR–2023–0011 on the home page and click 'search.' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting 'notice' under 'document type' on the left side of the search-results page, and click on the 'comment now' link. For further information on using the *regs.gov* website, please consult the resources provided on the website by clicking on 'How to Use *Regulations.gov*' on the bottom of the page.

Regs.gov allows users to provide comments by filling in a 'type comment' field, or by attaching a document using an 'upload file' field. USTR prefers that applications be provided in an attached document. If a document is attached, please type ''Application for Inclusion on USMCA Chapter 10 Roster'' in the 'upload file' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the 'type comment' field.

Applications must be typewritten, and should be headed ''Application for Inclusion on USMCA Chapter 10 Roster.'' Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of the applicant.
2. Business address, telephone number, fax number, and email address.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.
5. Relevant education and professional training.
6. Spanish language fluency, written and spoken.
7. Post-education employment history, including the dates and addresses of each prior position and a summary of responsibilities.
8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
9. A list and copies of publications, testimony, and speeches, if any, concerning AD/CVD law. Judges or former judges should list relevant judicial decisions. Submit only one copy of publications, testimony, speeches, and decisions.
10. Summary of any current and past employment by, or consulting or other work for, the Governments of the United States, Canada, or Mexico.
11. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.,* and the dates of all registration periods.
12. List of proceedings brought under U.S., Canadian, or Mexican AD/CVD law regarding imports of U.S., Canadian, or Mexican products in which the applicant advised or represented (for example, as consultant or attorney) any U.S., Canadian, or Mexican party to such proceeding and, for each such proceeding listed, the name and country of incorporation of such party.
13. A short statement of qualifications and availability for service on chapter 10 panels, including information relevant to the applicant's familiarity with international trade law and willingness and ability to make time commitments necessary for service on panels.
14. On a separate page, the names, addresses, email addresses, telephone and fax numbers of three individuals willing to provide information

concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, judgment, and familiarity with international trade law.

G. Current Roster Members and Prior Applicants

Current members of the chapter 10 roster who remain interested in inclusion on the chapter 10 roster only need to indicate that they are reapplying and submit updates (if any) to their applications on file. Current members do not need to resubmit their applications. Individuals who previously have applied but have not been selected must submit new applications to reapply. If an applicant, including a current or former roster member, has previously submitted materials referred to in item 9, such materials need not be resubmitted.

H. Public Disclosure

Applications are covered by a Privacy Act System of Records Notice and are not subject to public disclosure and will not be posted publicly on *regs.gov.* They may be referred to other federal agencies and Congressional committees in the course of determining eligibility for the roster, and shared with foreign governments and the USMCA Secretariat in the course of panel selection.

I. False Statements

False statements by applicants regarding their personal or professional qualifications, or financial or other relevant interests that bear on the applicants' suitability for placement on the chapter 10 roster or for appointment to binational panels, are subject to criminal sanctions under 18 U.S.C. 1001.

Juan Millan,

Deputy General Counsel for Monitoring and Enforcement, Office of the United States Trade Representative.

[FR Doc. 2023–21531 Filed 9–28–23; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Revised Form FHWA–1273

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice announces the availability of revised Form FHWA–1273 ''Required Contract Provisions Federal-Aid Construction Contracts'' (FHWA–1273). This form includes certain contract provisions that are required on all Federal-aid construction contracts. This form also includes proposal notices that Federal-aid recipients must incorporate or reference in all solicitation-for-bids or request-for-proposals documents for Federal-aid construction projects. The changes to the form are those necessary to conform to the U.S. Department of Labor's (DOL) August 23, 2023, final rule amending the Davis-Bacon Act (DBA) and the Davis-Bacon Related Acts (DBRA) implementing regulations and are aligned with the effective date of those regulations.

DATES: The revised Form FHWA–1273 is effective October 23, 2023.

FOR FURTHER INFORMATION CONTACT: Mr. James DeSanto, Office of Preconstruction, Construction and Pavements, (614) 357–8515, *james.desanto@dot.gov* or Mr. Silvio J. Morales, Office of Chief Counsel, (443) 835–8344, *silvio.morales@dot.gov*, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On March 18, 2022, the DOL published a notice of proposed rulemaking (NPRM), 87 FR 15698, proposing to update and modernize the regulations at 29 CFR parts 1, 3, and 5, which implement the DBA and the DBRA. The DBA requires the payment of locally prevailing wages and fringe benefits on Federal contracts for construction. The DBA prevailing wage requirements were subsequently incorporated into Title 23 of the United States Code (U.S.C.) and are thus applicable to Federal-aid highway construction contracts. 23 U.S.C. 113. In compliance with the latter FHWA requires that all Federal-aid highway construction contracts physically incorporate the DBA prevailing wage requirements via FHWA–1273. See 23 CFR 633.102.

After considering public comments on the NPRM, the DOL on August 23, 2023, published a final rule notice in the **Federal Register** at 88 FR 57526, adopting, with some modifications, the NPRM's proposed changes to the DBA prevailing wage regulations at 29 CFR parts 1, 3, and 5. The modifications to the required contract provisions contained in 29 CFR 5.5 are applicable to the DBA prevailing wage requirements within FHWA–1273. Pursuant to 23 CFR 633.104(a), FHWA has updated Form FHWA–1273 to be consistent with the new regulatory requirements. As such, and in accordance with 23 CFR part 633, subpart A, the revised Form FHWA–1273, which can be found at *https://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf,* must be used by recipients and contractors, including subcontractors at all tiers, as applicable under the regulations. As specified in DOL's final rule, the new regulations are applicable to all contracts awarded on or after October 23, 2023. Accordingly, States and other contracting agencies must use the revised Form FHWA–1273 in all prime construction contracts for Federal-aid construction projects awarded on or after October 23, 2023, as well as all subcontracts, including lower-tier subcontracts, that are awarded under such prime contracts.

Authority: 23 U.S.C. 113; 23 CFR 633.104; 29 CFR 5.5.

Shailen P. Bhatt,

Administrator, Federal Highway Administration.

[FR Doc. 2023–21306 Filed 9–28–23; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2023–0005]

Surface Transportation Project Delivery Program; Arizona Department of Transportation Draft FHWA Audit Report

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice; request for comment.

SUMMARY: The Moving Ahead for Progress in the 21st Century Act established the Surface Transportation Project Delivery Program (referred to as National Environmental Policy Act (NEPA) Assignment Program), allows a State to assume FHWA's environmental responsibilities for environmental review, consultation, and compliance under NEPA. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of FHWA. This program mandates annual audits during each of the first 4 years of State participation to ensure compliance with program requirements. This is the third audit of the Arizona Department of Transportation's (ADOT) performance of its responsibilities under the NEPA Assignment Program. This notice announces and solicits comments on the third audit report for ADOT.

DATES: Comments must be received on or before October 30, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Colleen Vaughn, Office of Project Development and Environmental Review, (202) 633–0356, *colleen.vaughn@dot.gov,* Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, or Ms. Michelle Andotra, Office of the Chief Counsel, (404) 562–3679, *michelle.andotra@dot.gov,* Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at *www.regulations.gov.*

Background

The Surface Transportation Project Delivery Program, codified at Title 23, United States Code (U.S.C.), Section 327, commonly known as the NEPA Assignment Program, allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal-aid highway projects. When a State assumes these Federal responsibilities, the State becomes solely liable for carrying out the responsibilities it has assumed, in lieu of FHWA. The ADOT published its application for NEPA assumption on June 29, 2018, and solicited public comment. After considering public comments, ADOT submitted its application to FHWA on November 16, 2018. The application served as the basis for developing a memorandum of understanding (MOU) that identifies the responsibilities and obligations that ADOT would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on February 11, 2019, at 84 FR 3275, with a 30-day comment period to solicit the views of the public and Federal agencies. After the close of the comment period, FHWA and ADOT considered comments and proceeded to execute the MOU. Effective April 16, 2019, ADOT assumed FHWA's responsibilities under NEPA, and the responsibilities for other Federal environmental laws described in the MOU.

Section 327(g) of Title 23, U.S.C., requires the Secretary to conduct annual audits to ensure compliance with the MOU during each of the first 4 years of State participation and, after the fourth year, monitor compliance. The FHWA must make the results of each audit available for public comment. This notice announces and solicits comments on the third audit report for ADOT.

Authority: Section 1313 of Public Law 112–141; Section 6005 of Public Law 109–59; 23 U.S.C. 327; 23 CFR 773.

Shailen P. Bhatt,

Administrator, Federal Highway Administration.

Surface Transportation Project Delivery Program

Draft FHWA Audit #3 of the Arizona Department of Transportation

Executive Summary

This is Audit #3 of the Arizona Department of Transportation's (ADOT) assumption of National Environmental Policy Act (NEPA) responsibilities under the Surface Transportation Project Delivery Program. Under the authority of Title 23, United States Code (U.S.C.), Section 327, ADOT and the Federal Highway Administration (FHWA) executed a memorandum of understanding (MOU) on April 16, 2019, to define ADOT's NEPA responsibilities and liabilities for Federal-aid highway projects and other related environmental reviews for highway projects in Arizona. This MOU covers environmental review responsibilities for projects that require the preparation of environmental assessments (EA), environmental impact statements (EIS), and unlisted (identified as individual by ADOT) categorical exclusions (CE).

The FHWA conducted a third audit of ADOT's performance according to the terms of the MOU from March 28 to April 1, 2022. Prior to the audit, the FHWA audit team reviewed ADOT's environmental manuals and procedures, NEPA project files, ADOT's response to FHWA's pre-audit information request (PAIR), and ADOT's NEPA Assignment Self-Assessment Report. During the third audit, the audit team conducted interviews with staff from ADOT's Environmental Planning (EP), Civil Rights Office, Communications, Construction Districts, Contracts & Specifications, as well as the Gila River Indian Community Tribal Historic Preservation Office (THPO), the Hopi THPO, the Salt River Pima-Maricopa Indian Community THPO, the Arizona State Historic Preservation Officer (SHPO), and the Arizona Attorney General's Office (AGO), and prepared preliminary audit results. The audit team presented these preliminary results to ADOT leadership on April 1, 2022.

The audit team found that ADOT has carried out the responsibilities it assumed consistent with the intent of the MOU and ADOT's application. The ADOT continues to develop, revise, and implement procedures and processes required to deliver its NEPA Assignment Program. This report describes several general observations and successful practices, as well as identified non-compliance observations where ADOT must implement corrective actions prior to the next audit. While ADOT has expressed lack of full agreement on some of the past audit observations, the audit team does recognize that ADOT continues to act on those past observations. By doing so, ADOT continues to assure successful program assignment.

Background

The purpose of the audits performed under the authority of 23 U.S.C. 327 is to assess a State's compliance with the provisions of the MOU as well as all applicable Federal statutes, regulations, policies, and guidance. The FHWA's review and oversight obligation requires FHWA to collect information to evaluate the success of the NEPA Assignment Program; to evaluate a State's progress toward achieving its performance measures as specified in the MOU; and to collect information for the administration of the NEPA Assignment Program. This report summarizes the results of the third audit in Arizona and ADOT's progress towards meeting the program review objectives identified in the MOU.

Scope and Methodology

The overall scope of this audit review is defined both in statute (23 U.S.C. 327) and the MOU (Part 11). The definition of an audit is one where an independent, unbiased body makes an official and careful examination and verification of accounts and records. Auditors who have special training with regard to accounts or financial records may follow a prescribed process or methodology in conducting an audit of those processes or methods. The FHWA considers its review to meet the definition of an audit because it is an unbiased, independent, official, and careful examination and verification of records and information about ADOT's assumption of environmental responsibilities.

The audit team consisted of NEPA subject matter experts (SME) from FHWA Headquarters, Resource Center, Office of the Chief Counsel, and staff from FHWA's Arizona Division. This audit is an unbiased official action taken by FHWA, which included an audit

team of diverse composition, and followed an established process for developing the review report and publishing it in the **Federal Register**.

The audit team reviewed six NEPA Assignment Program elements: program management; documentation and records management; quality assurance/quality control (QA/QC); performance measures; legal sufficiency; and training. The audit team considered four additional focus areas for this review: the procedures contained in 40 CFR part 93 for project-level conformity; the procedures contained in Section 4(f) of the U.S. Department of Transportation Act of 1966, codified at 49 U.S.C. 303 and 23 U.S.C. 138 (otherwise known as Section 4(f)); environmental justice evaluations (Environmental Justice per Executive Order (E.O.) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and Tribal consultation per the National Historic Preservation Act (NHPA) of 1966, 36 CFR 800 *et seq.,* E.O. 13175, Consultation with Indian Tribal Governments); and additionally, ADOT's environmental commitment tracking process. This report concludes with a status update for FHWA's observations from the first and second audit reports.

The audit team conducted a careful examination of ADOT policies, guidance, and manuals pertaining to NEPA responsibilities, as well as a representative sample of ADOT's project files. Other documents, such as ADOT's PAIR responses and ADOT's Self-Assessment Report, also informed this review. In addition, the audit team interviewed ADOT, Arizona AGO, Tribal THPO staff, as well as the Arizona SHPO via videoconference.

The timeframe defined for this third audit includes highway project environmental approvals completed between January 1 to December 31, 2021. During this timeframe, ADOT completed NEPA approvals and documented NEPA decision points for six projects. Due to the small sample size, the audit team reviewed all six projects. This consisted of one Tier 1 EIS, one EA with a Finding of No Significant Impact, and four unlisted CEs. The FHWA also reviewed information pertaining to project tracking and mitigation commitment compliance for all projects that have been processed by ADOT since the initiation of the NEPA Assignment Program.

The PAIR submitted to ADOT contained 25 questions covering all 6 NEPA Assignment Program elements. The audit team developed specific follow-up questions for the interviews with ADOT staff and others based on ADOT's responses to the PAIR. The audit team conducted a total of 23 interviews. Interview participants included staff from ADOT, Tribal THPOs, Arizona AGO, as well as the Arizona SHPO.

The audit team compared ADOT manuals and procedures to the information obtained during interviews and project file reviews to determine if ADOT's performance of its MOU responsibilities is in accordance with ADOT procedures and Federal requirements. The audit team documented individual observations and successful practices during the interviews and reviews, and combined these under the six NEPA Assignment Program elements. The audit results are described below by program element.

Overall Audit Opinion

The audit team found ADOT has carried out the responsibilities it has assumed consistent with the intent of the MOU and ADOT's application. The FHWA is notifying ADOT of five non-compliance observations identified in this audit that require ADOT to take corrective action. The ADOT must address these non-compliance observations and continue making progress on non-compliance observations in the previous audits prior to the next audit. By addressing the observations cited in this report, ADOT will continue to ensure a successful program.

Successful Practices and Observations

Successful practices are practices that the team believes are positive and encourages ADOT to consider continuing or expanding the use of those practices in the future. The audit team identified successful practices in this report.

Observations are items the audit team would like to draw ADOT's attention to, and for which ADOT may consider improving processes, procedures, and/or outcomes. The team identified 10 general observations in this report.

Non-compliance observations are instances where the audit team finds the State is not in compliance or is deficient with regard to a Federal regulation, statute, guidance, policy, State procedure, or the MOU. Non-compliance may also include instances where the State has failed to secure or maintain adequate personnel and/or financial resources to carry out the responsibilities they have assumed. The FHWA expects the State to develop and implement corrective actions to address all non-compliance observations. The audit team identified five non-compliance observations in this report.

Program Management

Successful Practice #1

The ADOT's PAIR response indicated, and interviews confirmed, that ADOT EP is working with the ADOT Civil Rights Office (CRO) to develop an environmental justice standard work process. This will establish the roles and responsibilities between the two ADOT offices and ensure the CRO's technical review of the environmental justice analysis is completed.

Observations

Non-compliance Observation #1: Incomplete Reporting to the Federal Infrastructure Permitting Dashboard.

The ADOT is responsible for inputting project information for assigned projects into the Federal Infrastructure Permitting Dashboard (Dashboard), per MOU Section 8.5.1. During the audit, the audit team reviewed the Dashboard and found that it did not include Federal permit and authorization information for any of the applicable projects assigned to ADOT beyond NHPA Section 106 consultation. The audit team confirmed during interviews that ADOT had identified the need for additional permits and authorizations for these projects but had not uploaded the permit information in the Dashboard because those activities were planned far in the future. Per the Office of the Secretary of Transportation Dashboard reporting standards, ADOT is required to identify all Federal permits and authorizations that are anticipated to be needed for the project to complete construction, and to input target and actual milestone completion dates for those permits and authorizations. Target dates for milestones shall be based on the best available information. The ADOT must take corrective action to address this issue by the next audit.

Observation #1: Deficiencies and gaps in ADOT's manuals and procedures.

The audit team reviewed ADOT's manuals and procedures. Section 4.2.4 of the MOU specifies that ADOT must implement procedures to support appropriate environmental analysis and decisionmaking under NEPA and associated laws and regulations. The audit team identified the following deficiencies in ADOT's manuals and procedures which may result in incomplete project documentation or analysis and increase the risk for non-compliance:

- In Audit #2, the audit team identified an observation that the ADOT EA/EIS Manual does not contain

complete procedures for EA or EIS-level re-evaluations. The EA/EIS Manual instead points to the ADOT CE Manual for direction, therefore the process for EA/EIS re-evaluations continues to be incomplete and not well-defined. The FHWA requested the correction of the EA or EIS-level re-evaluation section of the EA/EIS Manual in Audit #2. To date, ADOT has not made the correction as requested by FHWA, therefore, this is a continuing observation.

- The ADOT EA/EIS Manual and the current 2017 ADOT Public Involvement Plan approved prior to NEPA assignment do not contain procedures detailing the criteria ADOT uses to make the determination on when to hold public hearings for EA-level projects and what criteria will be used to make determinations on whether to hold a public hearing when one is requested, as specified in 23 CFR 771.111(h)(2)(iii). The ADOT has indicated in its response to the PAIR and in interviews that they are in the process of updating the ADOT Public Involvement Plan to include more specificity on, and fulfilling the requirements for, public involvement under NEPA. The procedures should also be referenced in the ADOT EA/EIS Manual.

The ADOT acknowledged the need for improvement regarding manuals/guidance and version control. The FHWA recommended that ADOT revisit their current procedures for updating manuals/guidance, from use of amendment tables to use of document dates to reflect the latest/most current version.

Observation #2: Improvements to Tribal engagement warranted.

Interviews with ADOT staff and THPOs identified the need for improvements to Tribal consultation practices. The THPOs expressed frustration that ADOT's approach to engagement with the Tribes was lacking outside of Section 106, and engagement completed under Section 106 did not constitute meaningful engagement.

The ADOT should develop procedures that identify their responsibilities to coordinate and consult with Tribes in all phases of project development from planning through construction. The FHWA recommends:

- ADOT improve transparency regarding project information;
- ADOT provide the Tribes with any SHPO Section 4(f) consultation as part of the Tribal consultation package for individual projects; and
- All ADOT personnel with visibility on projects or who participate in meetings with Tribes complete sensitivity training as well as training regarding the Federal Government's relationship to Tribes under Government-to-Government consultation, per MOU Section 3.2.3.

The FHWA recommendations listed above are outlined in the FHWA/ADOT Tribal Consultation Letter Agreement executed on August 5, 2022. The ADOT accepted FHWA's recommendations and added a Tribal Liaison position.

Non-compliance Observation #2: Responsibilities under the 327 MOU assigned to additional divisions independent of ADOT EP.

Based on interviews of ADOT staff, the PAIR responses, and review of ADOT's 327 application, it was identified that ADOT divisions outside of EP have responsibilities under NEPA Assignment. These divisions have not been identified or addressed in the ADOT EP procedures, manuals, or plans. These responsibilities include environmental commitment tracking, environmental review in the field, and completion of the necessary training associated with those responsibilities. The ADOT must take corrective actions to develop and implement procedures to apply the 327 MOU provisions to all divisions of ADOT, per MOU Section 1.1.2 and ADOT Final Application for Assumption of FHWA NEPA Responsibilities, by the next audit.

Non-compliance Observation #3: Deficiencies in environmental commitment tracking.

The ADOT was unable to provide FHWA with a process manual or any type of consolidated report which documents the tracking of environmental commitments made during the environmental review process. The ADOT was unable to identify a meaningful tracking and monitoring system for environmental commitments and mitigation compliance. The ADOT has stated that this NEPA requirement is the responsibility of the ADOT District Offices, which are outside the supervisory authority of ADOT's EP Office. Per MOU Section 1.1.2 and the ADOT Final Application for Assumption of FHWA NEPA Responsibilities, ADOT is responsible for environmental commitment tracking, and all divisions that have identified and assumed FHWA NEPA responsibilities must comply with all provisions of the 327 MOU and ADOT's NEPA application requesting assignment. The ADOT must take corrective actions to address the tracking of environmental commitments and mitigation compliance by the next audit.

The ADOT does complete monitoring of environmental commitments associated with contractor responsibilities that have funding line items. This is completed using their Field Automated System payment system, but that is only a small subset of project commitments. The ADOT EP has begun taking measures to establish a procedure or mechanism for tracking environmental commitments and mitigation compliance, including hiring an Environmental Commitments Coordinator and through development of the Environmental, Permits, Issues, and Commitments Tracking sheet.

Documentation and Records Management

Successful Practice #2

The ADOT staff identified a Historic Preservation Team tracking spreadsheet maintained by ADOT's Cultural Resources Program Manager. This spreadsheet is used to track and verify that all cultural resource environmental commitments on projects are implemented from identification to completion. If ADOT finds this tracking method to be effective, they could consider implementing it more widely to other environmental commitments throughout their program.

Observations

Non-compliance Observation #4: Incomplete project file submission and standard folder structure issues.

Pursuant to MOU Sections 8.2.2 and 8.2.3, FHWA requested all project files pertaining to the NEPA approvals and documented NEPA decision points to be completed during the audit review period. The audit team found several inconsistencies between ADOT's procedures for maintaining project files and the project file documentation provided to FHWA. The FHWA continues to experience issues when attempting to access the files ADOT provided for the audit, as they are either not in a format that can be opened, or they are inaccessible because they are saved as a link to the internal ADOT system and not the actual document. The MOU Sections 11.1.2 and 11.1.3 detail ADOT's responsibilities to provide FHWA any information FHWA reasonably considers necessary to ensure that ADOT is adequately carrying out the responsibilities assigned, and ADOT's agreement to cooperate with FHWA in conducting audits including providing access to all necessary information.

The ADOT's procedures specify utilizing a standard folder structure for all projects and saving all project

documentation and supporting information in the project files. The project files submitted by ADOT were incomplete, did not include all supporting documentation, and the files were not organized in accordance with the ADOT standard folder structure. It is unclear how ADOT is maintaining electronic project files and administrative records in compliance with its procedures and the terms of the 23 U.S.C. 327 MOU as they apply to records retention. The ADOT must take corrective action by the time of the next audit to ensure that the complete project file is provided to FHWA upon request. The documentation must support all determinations made. It is FHWA's expectation that documentation to support a project's decision will be included in ADOT's project files. The ADOT will also provide complete documentation to FHWA upon request.

Observation #3: Minor edits needed to resolve deficiency in Section 4(f) evaluation of archaeological resources.

The ADOT's Section 4(f) Manual (Sections 3.3 and 3.4.2) and FHWA regulations, policies, and guidance provide information on determining the applicability of Section 4(f) to archaeological resources and determining if there is an exception or potential use. The ADOT's Section 4(f) Manual (Sections 5.2 and 5.3) specify procedures for documenting Section 4(f) uses of archaeological sites, exceptions per 23 CFR 774.13(b), and ''no use'' determinations.

During Audit #1, FHWA identified inconsistencies with ADOT's Section 4(f) evaluation and documentation of archaeological sites. In Audit #2, the audit team observed similar inconsistencies during the project file reviews and identified procedural deficiencies relating to ADOT's Section 4(f) evaluation and documentation. In response to the Audit #2 finding, ADOT updated their Section 106 Federal-aid Programmatic Agreement Manual (which also contains the Section 4(f) guidance) with new preservation in place language. The FHWA recommends the following edits to the new language (identified in italics and strikeouts):

> "By law, transportation projects involving federal *actions and / or funding* require assessment in accordance with Section 4(f) of the Department of Transportation Act (PL 89-670) and its implementing regulations at 23 CFR Part 774. In compliance with this statute, ADOT is obligated to assess archaeological sites ~~from a purely Western, science-based perspective.~~ In doing so, ADOT has found that Site X derives its primary statutory importance from its data potential, the nature and extent of which do not warrant preservation in place. If your office has no objection to this finding, ADOT will determine, *in* accordance with 23 CFR § 774.13, that site X meets the archaeological exception from Section 4(f) consideration. ~~ADOT understands and acknowledges that while legally necessary, Western approaches to the identification, interpretation, and valuation of *archaeological sites* Native American places are but one of many voices regarding the significance of these resources.~~ As part of the ongoing Section 106 consultation process, ADOT has sought, and continues to seek information from *the State Historic Preservation Office (SHPO), Section 106 Consulting Parties, Tribes, and the public, as necessary,* ~~affiliated tribe~~s with regard to this and other affected cultural resources."

Observation #4: Deficiencies in Section 4(f) documentation of *de minimis* impact to historic properties.

The ADOT's procedures (ADOT Section 4(f) Manual Sections 5.1 and 5.4.2 and ADOT QA/QC Plan Section 5.1.1) specify obtaining written concurrence from the official with jurisdiction when ADOT determines a project will involve the de minimis use of a historic property protected by Section 4(f), per 23 U.S.C. 303(d) and 23 CFR 774.5. After completing the project file review, the audit team identified the following procedural deficiency relating to ADOT's procedures: the use of a single concurrence signature for both the Section 106 effect finding concurrence and the Section 4(f) *de minimis* application concurrence. The ADOT needs to either use separate concurrence signature lines for the two decisions being documented or to draft a Letter Agreement between the Arizona SHPO and ADOT that applies program wide. This agreement would state that when the SHPO concurs with a no adverse effect finding that the single SHPO concurrence signature confirms that they concur with both decisions if ADOT details in the letter their intent to make a *de minimis* finding as well.

Observation #5: Continued improvement in Air Quality Conformity communication.

The ADOT has made progress regarding the level of communication and coordination with FHWA on project-level air quality conformity analysis. The ADOT should continue to build on that progress and keep the lines of communication open among all the interagency consultation partners. It would be good practice for ADOT to share re-evaluations requiring conformity determinations with interagency consultation partners for their input before requesting a FHWA conformity determination.

Observation #6: Inconsistent use and absence of the 327 MOU disclosure statement.

Section 3.1.3 of the MOU specifies that ADOT shall disclose the disclosure statement to the public, Tribes, and agencies as part of agency outreach and public involvement procedures. The audit team project file reviews found inconsistent use of the disclosure statement on agency correspondence and technical reports, as well as absence of the statement in public involvement materials. The audit team found no consistent process or procedure for inclusion of the 327 MOU disclosure statement in the ADOT manuals/guidance as required by MOU Section 3.1.3. The ADOT should strive to achieve consistency in the placement of disclosure statements in documents.

Non-compliance Observation #5: Deficiencies in analysis of environmental impacts on low-income and minority populations (environmental justice).

The ADOT's EA/EIS Manual, CE Manual, and FHWA E.O., policies, and guidance provide information on completing the environmental justice analysis required for projects. The FHWA identified inconsistencies in

ADOT's Section EA/EIS Manual, CE Manual, PAIR response, and interview responses regarding how ADOT completes environmental justice analyses. The methodology described by ADOT is not in compliance with FHWA policy and guidance because ADOT analyzes the effect prior to identifying environmental justice populations in the project area. In addition, the CE Manual describes evaluating census data, but no additional sources for environmental justice population identification. The CE Manual also infers a default position that there will be no disproportionately high and adverse impacts on low-income or minority populations with CE-level projects. The audit team observed similar inconsistencies during the project file reviews for this audit and identified the same environmental justice analysis procedural deficiencies in the project documentation, as well as project files with little or no analysis documentation. In addition, there were inconsistent degrees of coordination with the ADOT CRO, who, according to the CE Manual and the PAIR response, is to be consulted on all environmental justice analyses. Based on these findings and a review of the ADOT Training Plan, additional environmental justice training is needed, and ADOT's manuals and procedures should be brought into compliance with FHWA requirements. The ADOT must take corrective action to ensure that environmental justice analysis and assessments are in compliance with E.O. 12898, DOT Order 5610.2C, and FHWA policy and guidance by the next audit.

Quality Assurance/Quality Control

Observations

Observation #7: QA/QC procedures lack assessment of compliance.

The ADOT has procedures in place for QA/QC which are described in the ADOT QA/QC Plan and the ADOT Project Development Procedures. When implemented, ADOT focuses on completeness of the project files, not the accuracy or technical merits of the decisions documented by those files. The ADOT does not check for compliance of the decisionmaking and it is therefore unclear how the project-level QC reviews inform the program. These observations were also found with Audits #1 and #2. The audit team continues to be unable to fully assess the implementation of project-level QC procedures. The ADOT does not appear to have a process in place for assessing the effectiveness of its QA/QC procedures to identify opportunities to improve the processes and procedures in their program, in ways that could help ensure better compliance with MOU requirements.

Observation #8: QA/QC procedures do not inform the performance measures.

It is unclear how the QA/QC procedures, such as the use of QC checklists, are informing ADOT about the technical adequacy of the environmental analyses conducted for projects (MOU Section 10.2.1.B.c) and how the timing of QA/QC reviews influences timeliness and efficiency in completion of the NEPA analysis. The QA/QC process as documented does not include a review of the adequacy of the technical analyses completed. The current performance measures do not provide QA/QC completion dates to create meaningful datasets that allow assessment of the timeliness of QA/QC actions. The FHWA recommends that a column be added to the current performance data matrix that measures the adequacy of technical documentation, as well as date columns for the completion of the draft QC, final QC, and QA checklists.

Performance Measures

Successful Practice #3

The ADOT Environmental Programs Manager identified team-level internal performance measures used by her team to track timelines on biological decisions, improve coordination with U.S. Fish and Wildlife Service, and inform the prioritization of projects. The ADOT EP has made beneficial documentation changes based on these internal leading performance measures for the quality and timeliness of biological consultation. These could serve as an example of meaningful metrics that could be integrated into the performance measures that ADOT is currently tracking.

Observations

Observation #9: Incomplete development and implementation of performance measures to evaluate the quality of ADOT's program.

The audit team reviewed ADOT's development and implementation of performance measures to evaluate their program as required in the MOU (Part 10.2.1). The ADOT's QA/QC Plan, PAIR response, and self-assessment report identified several performance measures and reported the data for the review period. The ADOT's reporting data primarily dealt with increasing efficiencies and reducing project delivery schedules rather than measuring the quality of relationships with agencies and the general public, and decisions made during the NEPA process. The metrics ADOT has developed are not being used to provide a meaningful or comprehensive evaluation of the overall program.

The FHWA was unable to determine how the ADOT QA/QC process is informing the improvement of the NEPA procedures used by ADOT, nor how it demonstrates meeting their performance measures. One area of concern is the lack of dates on key actions and when determinations are made. The FHWA recommends that ADOT evaluate the current performance measures matrix of other NEPA Assignment States department of transportation (such as Utah and Ohio) to assist in making meaningful changes in their current performance measures tracking. This observation was also made in Audit #1 and Audit #2.

Legal Sufficiency

The ADOT had completed one formal legal sufficiency review of an assigned environmental document during the audit period. The EIS received a formal legal sufficiency finding, which was included in the project file. Currently, ADOT retains the services of two Assistant Attorneys General (AAG) for NEPA Assignment reviews and related matters. The assigned AAGs have received formal and informal training in environmental law matters. The ADOT and the Attorney General's (AG) Office also have the option to procure outside counsel in accordance with 23 U.S.C. 327(a)(2)(G), but this was not necessary during the audit period.

Successful Practice #4

The ADOT seeks to involve lawyers early in the environmental review phase, with AAGs participating in project coordination team meetings and reviews of early drafts of environmental documents. The AAGs will provide legal guidance at any time ADOT requests it throughout the project development process. For formal legal sufficiency reviews, the process includes a submittal package from ADOT's NEPA program manager containing a request for legal sufficiency review. Various ADOT manuals set forth legal sufficiency review periods, and the AAGs coordinate with ADOT to ensure timely completion of legal sufficiency reviews. In addition, one of the AAGs has recently taken an active role in Tribal matters, including participating in meetings with Tribes and handling legal questions related to Tribal issues.

Training

Observation #10: Training Gaps.

The audit team reviewed ADOT's 2021 Training Plan and ADOT's PAIR responses pertaining to its training program. The ADOT's EP staff training matrix indicates that, while ADOT identifies the availability of staff needing training, many staff have not taken advantage of the opportunity for training, including other ADOT divisions subject to the 327 MOU provisions. The ADOT's training plan identifies that the training interval for some topics, such as the NEPA Assignment Program, is only once per staff member regardless of the period of time since the previous round of training. Staff may benefit from regular ''refresher'' type training, especially as regulatory requirements and policy may change over time.

Status of Previous General Observations and Non-Compliance Observations From the Audit #2 Report

This section describes the actions ADOT has taken (or is taking) in response to observations made during the second audit. The ADOT was provided the second audit draft report for review and provided comments to FHWA on August 2, 2021.

Observation #1: Deficiencies and gaps in ADOT's manuals and procedures.

During Audit #2, the audit team identified deficiencies in ADOT's manuals and procedures which may result in incomplete project documentation or analysis and increase the risk for non-compliance. The first was in the ADOT CE Checklist Manual and the EA/EIS Manual, specifically the process for re-evaluations for EAs and EISs was not well-defined. Although the team observed some improvements to the manuals in Audit #3, the deficiency identified in Audit #2 was not resolved and is an observation again in Audit #3. The other was the ADOT Section 4(f) Manual, documentation forms, and desk reference/matrix containing information inconsistent with FHWA guidance and regulation. The deficiencies identified in Audit #2 were addressed by ADOT, but additional issues were identified by the audit team in Audit #3.

Non-compliance Observation #1: Deficiencies in Section 4(f) evaluation of archaeological resources.

The audit team observed similar inconsistencies as were observed in Audit #1 during the project file reviews for Audit #2 and identified procedural deficiencies relating to ADOT's Section 4(f) evaluation. The consultation letter sent to the Arizona SHPO did not state ADOT's intent to apply the archaeological exception to sites or include other Section 4(f) information regarding the sites identified. In Audit #3, the audit team acknowledges changes were made to ADOT's Section 106 Federal-aid Programmatic Agreement Manual, but FHWA provided corrections to the draft language for ADOT to incorporate.

Non-compliance Observation #2: Deficiencies in analysis of right-of-way impacts.

The ADOT's procedures (ADOT EA/EIS Manual) and FHWA's regulations, policies, and guidance provide information on how to consider right-of-way impacts in the NEPA analysis. The FHWA's regulations, policies, and guidance provide additional information for how early property acquisitions should be considered with the right-of-way impacts analysis. In Audit #2 for the 327 MOU, the audit team found one project file did not demonstrate that early acquisition of properties and previous relocations were adequately addressed in the impact analysis in the NEPA document. The ADOT submitted a letter to FHWA on April 28, 2022, detailing the steps ADOT will take within 60 days as a corrective action to address the right-of-way non-compliance observation. On May 23, 2022, ADOT submitted to FHWA updated procedures regarding right-of-way impacts in their NEPA analyses and FHWA provided technical assistance to ADOT regarding these procedures. This corrective action by ADOT resolves the non-compliance observation.

Observation #3: Inconsistencies in interagency consultation documentation.

After completing the project file review in Audit #2, the audit team found several inconsistencies with ADOT's documentation of compliance with interagency consultation requirements (per 40 CFR 93.105). It is unclear if interagency consultation occurred for some projects since the project files did not include information on agency responses, concurrence, and the comment resolution process. Therefore, it is unknown if the interagency consultation agencies had an opportunity to participate in consultation or if ADOT provided them an opportunity to review and comment on the materials as required by 40 CFR 93.105 and MOU Section 7.2.1. During Audit #3, the audit team found an increased amount of documentation providing evidence of interagency consultation efforts by ADOT in the project files reviewed.

Observation #4: Incomplete development and implementation of performance measures.

During Audit #2, the audit team reviewed ADOT's performance measures and reporting data submitted for the review period and concluded that ADOT had made progress toward developing and implementing its performance measures. For Audit #3, FHWA continues to identify this program objective as an area of concern, described in the observations above and will continue to evaluate this area in subsequent audits.

Finalizing This Report

The FHWA provided a draft of the audit report to ADOT for a 14-day review and comment period, as well as notification of the non-compliance observations. The ADOT provided comments which the audit team considered in finalizing this draft audit report. The audit team acknowledges that ADOT has begun to address some of the observations identified in this report and recognizes ADOT's efforts toward improving their program. The FHWA is publishing this notice in the **Federal Register** for a 30-day comment period in accordance with 23 U.S.C. 327(g). No later than 60 days after the close of the comment period, FHWA will address all comments submitted to finalize this draft audit report pursuant to 23 U.S.C. 327(g)(2)(B). Subsequently, FHWA will publish the final audit report in the **Federal Register**. The FHWA will consider the results of this audit in preparing the scope of the next annual audit. The next audit report will include a summary that describes the status of ADOT's corrective and other actions taken in response to this audit's conclusions.

[FR Doc. 2023–21316 Filed 9–28–23; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2023–05; King Pin Assemblies in Highway-Rail Grade Crossing Warning Systems

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

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing Safety Advisory 2023–05 to heighten awareness within the railroad industry of the potential failure of king pin assemblies in highway-rail grade crossing warning systems equipped with breakaway gates. This Safety Advisory recommends that railroads inspect and replace all worn components in king pin assemblies. This Safety Advisory also recommends that railroads develop inspection and

maintenance programs for king pin assemblies.

FOR FURTHER INFORMATION CONTACT: Gabe Neal, Staff Director, Signal, Train Control and Crossings Division, Office of Railroad Safety, FRA, 1200 New Jersey Ave. SE, Washington, DC 20590, (816)-516–7168, *gabe.neal@dot.gov*.

Disclaimer: This Safety Advisory is considered guidance pursuant to DOT Order 2100.6A (June 7, 2021). Except when referencing laws, regulations, policies, or orders, the information in this Safety Advisory does not have the force and effect of law and is not binding in any way. This document does not review or replace any previously issued guidance.

SUPPLEMENTARY INFORMATION:

Background

King pin assemblies were introduced in the early 1990s as the rail industry transitioned from wooden crossing gate arms to aluminum and/or fiberglass crossing gate arms. Inspection and maintenance programs for king pin assemblies have not, however, been widely adopted and implemented within the railroad industry, even though some king pin assemblies have been in service since their original installation. King pin assemblies cannot be inspected without removing the crossing gate arm. In addition, the recommended maintenance of king pin assemblies is not usually conveyed by manufacturers in published guidance.

For highway-rail grade crossing warning systems equipped with king pin assemblies, the crossing gate slides onto the king pin at a 90-degree angle when the crossing gate is installed. The crossing gate is then pushed all the way up on the king pin and rotated into place. Shear bolts are installed to keep the crossing gate in position. When properly installed, the bulk of the crossing gate's weight rests permanently on the king pin and post pin tabs.

However, the king pin assembly can be damaged under normal operating conditions by vehicle strikes, high winds, rust, worn gate boot(s), and corrosion. If the highway-rail grade crossing gate is being held in place by a worn or damaged king pin assembly, the crossing gate may drop off the king pin and post pin tabs. When this occurs, the crossing gate may be held in place by only the shear bolts, which are not designed to hold the weight of the crossing gate. Therefore, if relied upon to hold the crossing gate in place, the shear bolts could stretch and break unexpectedly, allowing the crossing gate to fall. This could happen very quickly, potentially causing injury to railroad employees or members of the general public in close proximity to the crossing gate.

Illustrations of Defects

BILLING CODE 4910–06–P

Figure 1-King pin and gate assembly

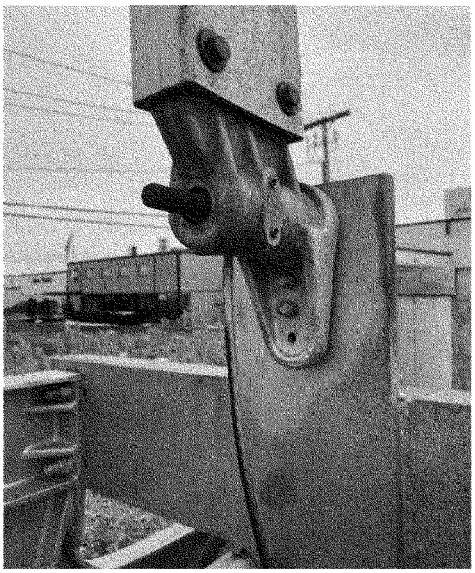


Figure 2-King pin and gate assembly close-up

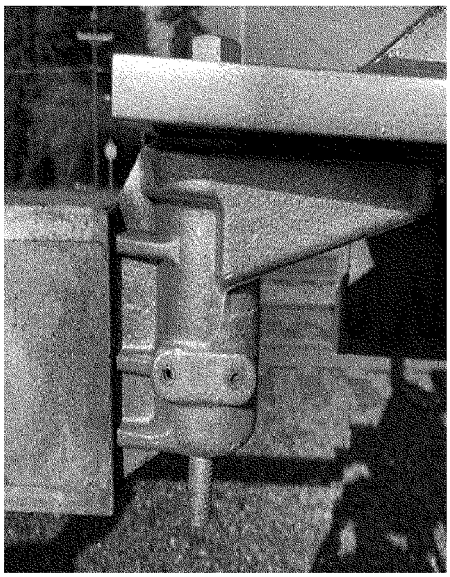


Figure 3-King pin with gate removed



Figures 4,5,6-Heavily oxidized and worn king pin tabs



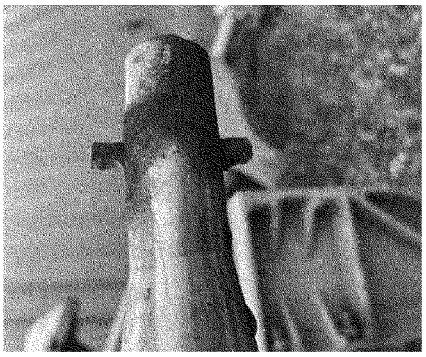
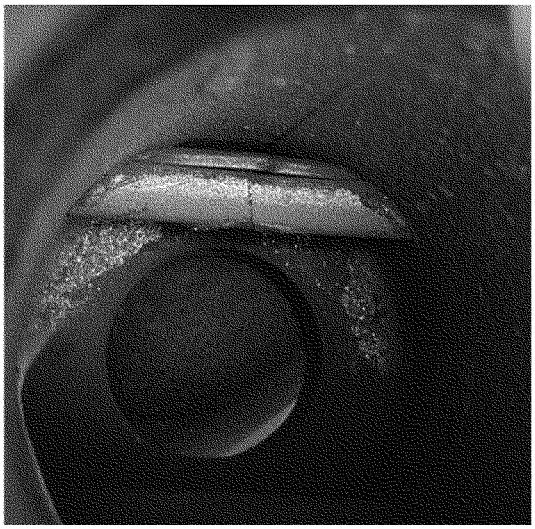




Figure 7-Roll pin crack on king pin



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Recommended Actions

To ensure the safety of the Nation's railroads, their employees, and the general public, FRA recommends that railroads take the following actions:

(1) Inspect king pin assemblies in highway-rail grade crossing warning systems and replace all worn components.

(2) Develop inspection and maintenance programs for king pin assemblies that incorporate maintenance procedures recommended by the manufacturer (if applicable), including lubrication of king pin assemblies to reduce wear and tear on the components. These inspection and maintenance programs should include periodic inspections of the king pin assembly with the crossing gate removed, as well as inspection of the king pin assembly each time the crossing gate is re-hung or replaced. These inspection and maintenance programs should also address the replacement of worn components and give special consideration to highway-rail grade crossing warning systems that are exposed to high levels of salt, which can cause corrosion.

(3) Issue instructions requiring employees to stay clear of descending crossing gates until fully lowered and to discuss potential failure of the king pin assembly in job safety briefings, when applicable. Railroads should also issue instructions requiring employees to warn others to stay clear of descending crossing gates until fully lowered.

Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2023–21289 Filed 9–28–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2023–06; Roadway Maintenance Machines—Importance of Clear Communications and Compliance With Applicable Rules and Procedures

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

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing Safety Advisory 2023–06 to emphasize the importance of rules and procedures regarding the safety of roadway workers who operate or work near roadway maintenance machines (RMM). This safety advisory recommends that railroads and contractors review and update their rules regarding the safety of roadway workers who operate or work near RMMs, communicate those changes to their employees, and monitor their employees for compliance with existing rules and procedures and

updated rules and procedures, if implemented. In addition, this safety advisory recommends that railroads and contractors conduct additional safety briefings to raise workers' awareness of the hazards associated with operating and working around RMMs.

FOR FURTHER INFORMATION CONTACT: Yu-Jiang Zhang, Staff Director, Track and Structures Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493–6460.

Disclaimer: This Safety Advisory is considered guidance pursuant to DOT Order 2100.6A (June 7, 2021). Except when referencing laws, regulations, policies, or orders, the information in this Safety Advisory does not have the force and effect of law and is not meant to bind the public in any way. This document does not revise or replace any previously issued guidance.

SUPPLEMENTARY INFORMATION:

Background

FRA is concerned about the incidents in the past few years resulting in fatalities of two roadway workers struck by RMMs on main line track. Information regarding these incidents, discussed below, is based on FRA's preliminary findings and the respective railroad's latest reporting. This safety advisory is not intended to attribute a cause to these incidents or place responsibility for these incidents on the acts or omissions of any person or entity.

The following is a summary of the circumstances involved in the incidents:

In August 2023, an RMM struck and fatally injured a contractor working on the Housatonic Railroad Company's main line. FRA's preliminary investigation shows that at the time of his injury, the contractor was part of a four-person work group. The work group consisted of two machine operators (each operating an RMM) and two roadway workers (each working on one of the RMMs). Before the incident, one of the RMMs (RMM–1) left the work area and traveled south to conduct repairs.

While waiting for RMM–1 to return, the remaining two roadway workers on the other RMM (RMM–2), including the worker who was subsequently fatally injured, dismounted RMM–2 to clear ballast away from the tie plates in preparation for the drilling and lag screw installation. One roadway worker used his hands to remove the ballast, while the other used a backpack blower. When RMM–1 returned to the work site, the worker using the backpack blower did not clear the track and was struck by RMM–1 when he did not respond to its approach.

In December 2021, a contractor working on the Norfolk Southern (NS) was fatally injured when struck by an RMM while working on the main line. The contractor was working with an NS rail gang and was marking rail for pickup and had started walking in the gauge of the track when the machine operator of the RMM made a backup move. The machine operator did not see the contractor walking in the gauge of the track and struck the contractor.

These incidents represent the worst-case scenario that can occur when roadway workers are working on or near RMMs. These incidents highlight the need for railroads to examine their rules and procedures for protecting roadway workers who operate or work near RMMs.

Recommendations

In light of the above discussion, FRA recommends that railroads and railroad contractors:

1. Review, update, and communicate applicable rules and procedures related to the operation of RMMs to ensure the safety of roadway workers who operate and work with or around the machines.

2. Increase monitoring of roadway workers, railroad employees, and contractors for compliance with all existing applicable rules and procedures (and any updated rules and procedures to result from paragraph (1)), particularly those involving the operation of RMMs and roadway workers working on and in the vicinity of RMMs.

3. Conduct additional safety briefings to raise workers' awareness of the hazards associated with operating and working around RMMs.

FRA encourages all railroad industry members to take actions consistent with the recommendations of this Safety Advisory. FRA may modify this Safety Advisory, issue additional safety advisories, or take other appropriate action necessary to ensure the highest level of safety on the Nation's railroads, including pursuing other corrective measures under its rail safety authority.

Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2023–21497 Filed 9–28–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2023–0143]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection(s): Procedures for Transportation Workplace Drug and Alcohol Testing Programs (ICR 2105–0529)

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation (DOT) invites public comments about our intention to request Office of Management and Budget (OMB) approval to renew information collection 2105–0529, Procedures for Transportation Drug and Alcohol Testing Program (ICR 2105–0529). The information to be collected will be used to document tests conducted and actions taken to ensure safety in the workplace and/or are necessary under the Omnibus Transportation Employee Testing Act of 1991, which requires DOT to implement a drug and alcohol testing program in various transportation-related industries. DOT is required to publish this notice in the **Federal Register** in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments to this notice must be received by November 28, 2023.

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

- *Website: http://www.regulations.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Federal eRulemaking Portal: http://www.regulations.gov* Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: You must include the agency name and docket number [DOT–OST–2023–0143] of this notice at the beginning of your comment. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided. Please see the Privacy Act section of this document.

Docket: You may view the public docket through the internet at *http://*

www.regulations.gov or in person at the Docket Management System office at the above address.

Privacy Act: 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.*

FOR FURTHER INFORMATION CONTACT: Mike Huntley, Office of Drug and Alcohol Policy and Compliance, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; 202–366–3784 (voice), 202–366–3897 (fax), or *ODAPCWebmail@dot.gov* (email).

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2105–0529.

Title: Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

Form Numbers: DOT F 1385; DOT F 1380.

Type of Review: Clearance of a renewal of an information collection.

Background: Under the Omnibus Transportation Employee Testing Act of 1991, DOT is required to implement a drug and alcohol testing program in various transportation related industries. This specific requirement is elaborated in 49 CFR part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs (part 40). This request for a renewal of the information collection for the program includes 45 burden items related to the overall program and 2 official DOT forms: the U.S. Department of Transportation Alcohol Testing Form (ATF) [DOT F 1380] and the DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form [DOT F 1385].

The ATF includes the employee's name, the type of test taken, the date of the test, and the name of the employer. Data on each test conducted, including test results, is necessary to document that the tests were conducted and is used to take action, when required, to ensure safety in the workplace. The MIS form includes employer specific drug and alcohol testing information such as the reason for the test and the cumulative number of test results for the negative, positive, and refusal tests. No employee specific data is collected. The MIS data is used by each of the affected DOT Agencies (*i.e.,* Federal Aviation Administration, Federal Transit Administration, Federal Railroad Administration, Federal Motor Carrier Safety Administration, and the Pipeline and Hazardous Materials Safety Administration) and the United States Coast Guard when calculating their industry's annual random drug and/or alcohol testing rate.

On May 2, 2023, Part 40 was amended to include oral fluid testing as an additional methodology for drug testing that gives employers a choice that will help combat employee cheating on urine drug tests and provide a less intrusive means of achieving the safety goals of the program [88 FR 27596]. As a result of the rule to include oral fluid testing as an additional methodology for drug testing, two new burden items have been added to this collection: (1) Oral Fluid Collector (Qualification and Refresher) Training Documentation [§ 40.35(b) & (e)]; and (2) Oral Fluid Collector Error Correction Training Documentation [§ 40.35(f)]. These new burden items are analogous to the existing burden items for urine collectors and screening test technicians and breath alcohol technicians.

Also as a result of the May 2023 rule to include oral fluid as an additional methodology for drug testing, DOT will request OMB approval for a revision of the MIS Data Collection Form to facilitate the collection of oral fluid testing data from employers. Specifically, in Section III of the form, ''Drug Testing Data,'' DOT will add additional rows under each ''Type of Test'' (*e.g.,* Pre-Employment, Random, Post-Accident, Reasonable Suspicion/Cause, Return-to-Duty, Follow-Up, and Total) for employers to enter the number of urine tests, the number of oral fluid tests, and the number of total tests conducted.

Respondents: The information will be collected from transportation employers, Department representatives, and a variety of service agents. Estimated total number of respondents is 1,426,662.

Frequency: The information will be collected annually.

Estimated Total Number Burden Hours: 1,469,136.

PRA item	Number of respondents	Number of responses	Burden per response (minutes)	Total burden (hours)	Total salary costs ($) [1]
Exemptions from Regulation Provisions Requests [40.7(a)]	1	1	180	3	122
Employer Stand-down Waiver Requests [40.21(b)]	0	0	480	0	0
Employee Testing Records from Previous Employers [40.25(a)]	549,029	990,596	8	132,079	5,387,502
Employee Release of Information [40.25(f)]	549,029	990,596	8	132,079	5,387,502
MIS Form Submission [40.26]	19,699	19,699	90	29,549	1,205,304
Urine Collector (Qualification and Refresher) Training Documentation [(40.33(b) & (e)]	5,000	5,000	4	333	13,583
Urine Collector Error Correction Training Documentation [40.33(f)]	17,980	17,980	4	1,199	48,907
Oral Fluid Collector (Qualification and Refresher) Training Documentation [(40.35(b) & (e)]	5,000	5,000	4	333	13,583
Oral Fluid Collector Error Correction Training Documentation [40.35(f)]	17,980	17,980	4	1,199	48,907
Laboratory Reports to DOT Regarding Unlisted Adulterant [40.87(e)]	0	0	30	0	0
Semi-Annual Laboratory Reports to Employers [40.111(a)]	19	365,983	4	24,399	995,235
Semi-Annual Laboratory Reports to DOT [40.111(d)]	19	456	4	30	1,224
Medical Review Officer (MRO) (Qualifications and Continuing Education) Training Documentation [40.121(c) & (d)]	1,000	1,000	4	67	2,733
MRO Review of Negative Results Documentation [40.127(b)(2)(ii)]	5,000	351,135	4	23,409	954,853
MRO Failure to Contact Donor Documentation [40.131(c)(1)]	5,000	50,787	4	3,386	138,115

PRA item	Number of respondents	Number of responses	Burden per response (minutes)	Total burden (hours)	Total salary costs ($) [1]
MRO Effort to Contact DER Documentation [40.131(c)(2)(iii)]	5,000	57,624	4	3,842	156,715
DER Successful Contact Employee Documentation [40.131(d)]	46,099	46,099	4	3,073	125,348
DER Failure to Contact Employee Documentation [40.131(d)(2)(i)]	11,525	11,525	4	768	31,327
MRO Verification of Positive Result Without Interview Documentation [40.133]	5,000	11,525	4	768	31,327
Adulterant/Substitution Evaluation Physician Statements [40.145(g)(2)(ii)(d)]	0	0	30	0	0
MRO Cancellation of Adulterant/Substitution for Legitimate Reason Reports [40.145(g)(5)]	0	0	30	0	0
Employee Admission of Adulterating/Substituting Specimen MRO Determination [40.159(c)]	40	40	4	3	122
Split Specimen Requests by MRO [40.171(c)]	5,000	11,932	4	795	32,428
Split Failure to Reconfirm for Drugs Reports by MRO [40.187(b)]	70	70	4	5	204
Split Failure to Reconfirm for Adulterant/Substitution Reports by MRO [40.187(c)]	8	8	5	1	41
Shy Bladder Physician Statements [40.193(f)]	719	719	5	60	2,447
MRO Statements Regarding Physical Evidence of Drug Use [40.195(b) & (c)]	0	0	0	0	0
Drug Test Correction Statements [40.205(b)(1) & (2)]	25,000	143,840	8	19,179	782,311
Breath Alcohol Technician (BAT)/Screening Test Technician (STT) (Qualification and Refresher) Training Documentation [40.213(b)(c) & (e)]	2,000	2,000	4	133	5,425
BAT/STT Error Correction Training Documentation [40.213(f)]	401	401	4	27	1,101
Complete DOT Alcohol Testing Forms [40.225(a)]	10,000	8,025,159	8	1,070,021	43,646,157
Evidential Breath Testing Device Quality Assurance/Calibration Records [40.233(c)(4)]	10,000	10,000	4	667	27,166
Shy Lung Physician Statements [40.265(c)(2)]	401	401	4	27	1,101
Alcohol Test Correction Statements [40.271(b)(1) & (2)]	803	803	4	54	2,203
Substance Abuse Professional (SAP) (Qualification and Continuing Education) Training Documentation [40.281(c) & (d)]	3,334	3,334	4	222	9,055
Employer SAP Lists to Employees [40.287]	116,467	116,467	4	7,764	316,694
SAP Reports to Employers [40.311(c), (d) & (e)]	10,000	201,258	4	13,417	547,279
Correction Notices to Service Agents [40.373(a)]	25	25	60	25	1,020
Notice of Proposed Exclusion (NOPE) to Service Agents [40.375(a)]	5	5	600	50	2,040
Service Agent Requests to Contest Public Interest Exclusions (PIE) [40.379(b)]	2	2	60	2	82
Service Agent Information to Argue PIE [40.379(b)(2)]	2	2	240	8	326
Service Agent Information to Contest PIE [40.381(a) & (b)]	2	2	240	8	326
Notices of PIE to Service Agents [40.399]	1	1	60	1	41
Notices of PIE to Employer and Public [40.401(b) & (d)]	1	1	60	1	41
Service Agent PIE Notices to Employers [40.403(a)]	1	300	30	150	6,119
Total New	1,426,662	11,459,756	2,328	1,469,136	59,926,016

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for DOT's performance; (b) The accuracy of the estimated burden that the collection would impose on respondents; (c) Ways for the DOT to enhance the quality, utility and clarity of the information to be collected; and (d) Ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC, on September 26, 2023.

Authority and Issuance.

Bohdan S. Baczara,

Deputy Director, DOT, Office of Drug and Alcohol Policy and Compliance.

[FR Doc. 2023–21548 Filed 9–28–23; 8:45 am]

BILLING CODE 4910–9X–P

[1] All salary costs are based upon the Department of Labor's bureau of Labor Statistics average employee compensation hourly cost in 2023.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request on Information Collection for Treasury Decision 9568, Methods To Determine Taxable Income in Connection With a Cost Sharing Arrangement—Internal Revenue Code (IRC) Section 482

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Treasury Decision Methods to Determine Taxable Income in connection with a Cost Sharing Arrangement—IRC section 482.

DATES: Written comments should be received on or before November 28, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include 1545–1364 or TD 9568 in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to LaNita Van Dyke, at (202) 317–6009, at Internal Revenue Service, room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Methods to Determine Taxable Income in connection with a Cost Sharing Arrangement—IRC section 482.

OMB Number: 1545–1364.

Treasury Decision Numbers: 9568.

Abstract: This document contains final regulations regarding methods to determine taxable income in connection with a cost sharing arrangement under section 482 of the Internal Revenue Code (Code). The final regulations address issues that have arisen in administering the current cost sharing regulations. The final regulations affect domestic and foreign entities that enter into cost sharing arrangements described in the final regulations.

Current Actions: There are no changes to the information collection.

Type of Review: Extension without change of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Response: 18 hours, 42 minutes.

Estimated Total Annual Burden Hours: 9,350.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 26, 2023.

Molly J, Stasko,

Senior Tax Analyst.

[FR Doc. 2023–21527 Filed 9–28–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Related to the Continuation Sheet for Item #16 (Additional Information) for OF–306, Declaration for Federal Employment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the burden associated with the continuation sheet for Item # 16 (Additional Information) for Form OF–306, *Declaration for Federal Employment.*

DATES: Written comments should be received on or before November 28, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224 or by email to *pra.comments@irs.gov.* Include 1545–1921 or Form 12114.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to LaNita Van Dyke, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Continuation Sheet for Item # 16 (Additional Information)—OF–306, Declaration for Federal Employment.

OMB Number: 1545–1921.

Regulation Project Number: Form 12114.

Abstract: This form is used by recruitment personnel of the Covington Host Site. This form is provided to applicants when completing OF 306, Declaration for Federal Employment. It is used as a continuation sheet to clearly define additional information that is requested in item 15 of the OF 306. Due to lack of space on the OF 306 this form can be used in lieu of an additional sheet of paper.

Current Actions: There are no changes to the burden previously approved by OMB. This submission is for renewal purposes.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 24,813.

Estimated Time Per Respondent: 15 min.

Estimated Total Annual Burden Hours: 6,203.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become

material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: September 26, 2023.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2023–21530 Filed 9–28–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Requesting Comments on Form 8835

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 8835, Renewable Electricity Production Credit.

DATES: Written comments should be received on or before November 28, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include OMB Control No. 1545–1362 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jon Callahan, (737) 800–7639, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *jon.r.callahan@irs.gov.*

SUPPLEMENTARY INFORMATION:

The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Form 8835, Renewable Electricity Production Credit.

OMB Number: 1545–1362.

Form Number: Form 8835.

Abstract: Form 8835 is used to claim the renewable electricity production credit. The credit is allowed for the sale of electricity produced in the United States or U.S. territories from qualified energy resources at a qualified facility. The IRS uses the information reported on the form to ensure that the credit is correctly computed.

Current Actions: There are changes to the existing collection. The form was revised to include information about the qualified facility, add lines for new credits, and remove lines for expired credits. The estimated number of responses was reduced to eliminate duplication of burden estimates. The estimated burden for individuals filing Form 8835 is approved under OMB control number 1545–0074, and the estimated burden for businesses filing Form 8835 is approved under OMB control number 1545–0123.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations; not-for-profit organizations.

Estimated Number of Responses: 40.

Estimated Time Per Respondent: 17 hours, 24 minutes.

Estimated Total Annual Burden Hours: 697.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 26, 2023.

Jon R. Callahan,

Senior Tax Analyst.

[FR Doc. 2023–21518 Filed 9–28–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Requesting Comments on Form 1041–QFT

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 1041–QFT, U.S. Income Tax Return for Qualified Funeral Trusts.

DATES: Written comments should be received on or before November 28, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or

by email to *pra.comments@irs.gov.* Include OMB Control No. 1593 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jon Callahan, (737) 800–7639, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *jon.r.callahan@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Pre-Screening Notice and Certification Request for the Work Opportunity Credit.

OMB Number: 1545–1593.

Form Number: Form 1041–QFT.

Abstract: Internal Revenue Code section 685 allows the trustee certain trusts to make an election for the trust to be taxed as a qualified funeral trust (QFT). The trustee of a QFT files Form 1041–QFT to report the income, deductions, gains, losses, and tax liability of the QFT. The IRS uses the information on the form to determine that the trustee filed the proper return and paid the correct tax.

Current Actions: There is a change to the existing collection. A line is being added to the form to include the elective payment election amount reported on Form 3800.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 15,000.

Estimated Time per Respondent: 20 hours, 40 minutes.

Estimated Total Annual Burden Hours: 310,350.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 26, 2023.

Jon R. Callahan,

Senior Tax Analyst.

[FR Doc. 2023–21517 Filed 9–28–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning generic clearance for the collection of qualitative feedback on agency service delivery.

DATES: Written comments should be received on or before November 28, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include 1545–2208 or Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to LaNita Van Dyke, at (202) 317–6009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 1545–2208.

Abstract: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, The Internal Revenue Service (hereafter ''the Agency'') seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on our service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

Current Actions: The IRS will be conducting different opinion surveys, focus group sessions, think-aloud interviews, and usability studies regarding cognitive research surrounding forms submission or IRS system/product development.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and businesses or other for-profit organizations.

Estimated Number of Respondents: 150,000.

Estimated Time Per Response: 6 minutes.

Estimated Total Annual Burden Hours: 15,000.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 26, 2023.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2023–21528 Filed 9–28–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request Relating to Lien Agreement Notice of Election of and Agreement to Special Lien

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning lien agreement notice of election of and agreement to special lien.

DATES: Written comments should be received on or before November 28, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov* . Include OMB control number 1545–0757 or Lien Agreement Notice of Election of and Agreement To Special Lien.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov* .

SUPPLEMENTARY INFORMATION:

Title: IRC Section 6324A Lien Agreement Notice of Election of and Agreement To Special Lien in Accordance With Internal Revenue Code Section 6324A and Related Regulations.

OMB Number: 1545–0757.

Form Number: 13925.

Abstract: Section 6324A of the Code permits an executor of a decedent's estate to elect a lien on section 6166 property in favor of the United States in lieu of a bond or other personal liability if an election under section 6166 or 6166A. Form 13925 is used to provide valuation information annually each year thereafter until the estate tax is collected in full.

Current Actions: There are no changes to the form or burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 500 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 26, 2023.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2023–21521 Filed 9–28–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the IRS Taxpayer Burden Surveys

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the 2020, 2021, and 2022 Wage and Investment Strategies and Solutions Behavioral Laboratory Customer Surveys and Support.

DATES: Written comments should be received on or before November 28, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include 1545–2274 or Wage and Investment Strategies and Solutions Behavioral Laboratory Customer Surveys and Support.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to LaNita Van Dyke, at (202) 317–6009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Wage and Investment Strategies and Solutions Behavioral Laboratory Customer Surveys and Support.

OMB Number: 1545–2274.

Regulatory Number: N/A.

Abstract: As outlined in the Internal Revenue Service (IRS) Strategic Plan, the Agency is working towards allocating IRS resources strategically to address the evolving scope and increasing complexity of tax administration. In order to do this, IRS must realize their operational efficiencies and effectively manage costs by improving enterprise-wide resource

allocation and streamlining processes using feedback from various behavioral research techniques. To assist the Agency is accomplishing the goal outlined in the Strategic Plan, the Wage and Investment Division continuously maintains a ''customer-first'' focus through routinely soliciting information concerning the needs and characteristics of its customers and implementing programs based on the information received. W&I Strategies and Solutions (WISS), is developing the implementation of a Behavioral Laboratory to identify, plan and deliver business improvement processes that support fulfillment of the IRS strategic goals. The collection of information through the Behavioral Laboratory is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with the commitment to improving taxpayer service delivery. Improving agency programs requires ongoing assessment of service delivery. WISS, through the Behavioral Laboratory, will collect, analyze, and interpret information gathered through this generic clearance to identify strengths and weaknesses of current services and make improvements in service delivery based on feedback provided by taxpayers and employees of the Internal Revenue Service.

Current Actions: The IRS will be revising and replacing various surveys. The survey scope is expanded to include burden for surveys associated with all taxpayer segments. This effort represents a continuation of the IRS's strategy to gather taxpayer burden data for all types of tax returns and information reporting documents in order to support Wage and Investment's OMB Improvement Strategy to transition burden estimates for all taxpayers to the preferred RAAS burden estimation methodology. These surveys will allow RAAS to update and validate the IRS Taxpayer Burden Model which will be used to provide estimates for consolidated taxpayer segments, like what is currently done for OMB numbers 1545–0074, 1545–0123, and 1545–0047.

Data Collections Covered Under This Clearance Request

Customer Call Back Programming (CCB)

Type of Review: Extension of a currently approved collection.

Affected Public: Individual, Business, or other for-profit organizations.

Estimated Number of Respondents: 150,000.

Estimated Time per Respondent: 1 hours.

Estimated Total Annual Burden Hours: 150,000 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 26, 2023.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2023–21526 Filed 9–28–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Application for Approval of Prototype Simplified Employee Pension (SEP) or Savings Incentive Match Plan for Employees of Small Employers (SIMPLE IRA Plan)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 5306–A, Application for Approval of Prototype Simplified Employee Pension (SEP) or Savings Incentive Match Plan for Employees of Small Employers (SIMPLE IRA Plan).

DATES: Written comments should be received on or before November 28, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include 1545–1821 or Form 5306–A.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to LaNita Van Dyke, at (202) 317–6009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Approval of Prototype Simplified Employee Pension (SEP) or Savings Incentive Match Plan for Employees of Small Employers (SIMPLE IRA Plan).

OMB Number: 1545–0199.

Form Number: 5306–A.

Abstract: This form is used by banks, credit unions, insurance companies, and trade or professional associations to apply for approval of a simplified employee pension plan or a Savings Incentive Match Plan to be used by more than one employer. The data collected is used to determine if the prototype plan submitted is an approved plan.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 6.

Estimated Time per Respondent: 19 hours, 22 minutes.

Estimated Total Annual Burden Hours: 117.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally,

tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 26, 2023.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2023–21525 Filed 9–28–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Revision of Information Collection Request Submitted for Public Comment; Comment Request for Form 8933

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 8933, Carbon Dioxide Sequestration Credit.

DATES: Written comments should be received on or before November 28, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please include, ''OMB Number: 1545–2132 or Form 8933'' in the Subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at (202) 317–3009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Carbon Dioxide Sequestration Credit.

OMB Number: 1545–2132.

Form Number: 8933.

Abstract: Use Form 8933 to claim the carbon oxide sequestration credit. The credit is allowed for qualified carbon oxide that is captured and disposed of or captured, used, and disposed of by the taxpayer in secure geological storage. Only carbon oxide captured and disposed of or used within the United States or a U.S. possession is taken into account when figuring the credit.

Current Actions: Form 8933 has been updated and revised to reflect new provisions under Public Law 117–169, section 13104.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Individuals or households, and Farms.

Estimated Number of Respondents: 250.

Estimated Time Per Respondent: 17 hours 31 min.

Estimated Total Annual Burden Hours: 4,380.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: September 26, 2023.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2023–21529 Filed 9–28–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request Concerning Procedures for Requesting Competent Authority Assistance Under Tax Treaties

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning procedures for requesting competent authority assistance under tax treaties.

DATES: Written comments should be received on or before November 28, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include 1545–2044 or Revenue Procedure 2015–40.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to LaNita Van Dyke, at (202)

317–6009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Procedures for Requesting Competent Authority Assistance Under Tax Treaties.

OMB Number: 1545–2044.

Revenue Procedure Number: 2015–40.

Abstract: Taxpayers who believe that the actions of the United States, a treaty country, or both, result or will result in taxation that is contrary to the provisions of an applicable tax treaty are required to submit the requested information in order to receive assistance from the IRS official acting as the U.S. competent authority. The information is used to assist the taxpayer in reaching a mutual agreement with the IRS and the appropriate foreign competent authority.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations.

Estimated Number of Respondents: 300.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 9,000.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 26, 2023.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2023–21532 Filed 9–28–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Beneficial Ownership Information Reports

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comments.

SUMMARY: The Department of the Treasury, on behalf of the Financial Crimes Enforcement Network (FinCEN), will submit the beneficial ownership information (BOI) report information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (PRA), on or after the date of publication of this notice. The details included in the information collection are listed below. The public is invited to submit comments on this information collection request.

DATES: Written comments should be received on or before October 30, 2023.

ADDRESSES: Written comments on 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 Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

I. Statutory and Regulatory Provisions

FinCEN issued the Beneficial Ownership Information Reporting Requirements final rule on September 30, 2022 (final BOI reporting rule).[1] The final BOI reporting rule requires certain legal entities to report to FinCEN information about themselves as well as information about their beneficial owners. Entities created or registered to do business on or after January 1, 2024, must also identify the individual who directly filed the document with specified governmental authorities that created the entity or registered it to do business, as well as the individual who was primarily responsible for directing or controlling such filing if more than one individual was involved in the filing of the document. Further, the regulations describe who must file a report, what information must be provided, and when a report is due. Entities must certify that the report is true, correct, and complete.

These regulations implement Section 6403 of the Corporate Transparency Act (CTA), enacted into law as part of the National Defense Authorization Act for Fiscal Year 2021 (NDAA).[2] That statutory provision, its implementing regulations, and their requirements are intended to help prevent and combat money laundering, terrorist financing, corruption, tax fraud, and other illicit activity, while minimizing the burden on reporting entities.

II. Paperwork Reduction Act of 1995[3]

Title: Beneficial Ownership Information (BOI) Reports.

OMB Control Number: 1506–0076.

Type of Review: New collection.

Description: In accordance with the CTA, the final BOI reporting rule imposes a new reporting requirement on certain entities (''reporting companies'') to file with FinCEN reports, known as Beneficial Ownership Information Reports (BOIRs). These BOIRs collect certain information about: (1) the reporting company; (2) the reporting company's beneficial owners; and (3) the individual(s) who filed the document with specified governmental authorities that created the entity or registered it to do business (known as company applicants).[4] The BOIRs will

[1] 87 FR 59498 (Sept. 30, 2022).

[2] Specifically, the CTA is Title LXIV of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283 (Jan. 1, 2021). Division F of the NDAA is the Anti-Money Laundering Act of 2020, which includes the CTA. Section 6403 of the CTA, among other things, amended the Bank Secrecy Act (BSA) by adding a new section 5336, Beneficial Ownership Information Reporting Requirements, to subchapter II of chapter 53 of title 31, United States Code.

[3] Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

[4] 31 U.S.C. 5336(b) and 31 CFR 1010.380(b).

be filed by completing a form (the BOIR Form) and submitting it through an online portal or submitting the information through an Application Programming Interface (API). These reports must be updated or corrected as specified in the final BOI reporting rule if reported information changes or is incorrect. The collected information will be maintained by FinCEN and made accessible to authorized users of the Beneficial Ownership Information Technology System.

Consistent with the requirements of the PRA, FinCEN carefully considered the comments received in response to the 60-day notice that proposed the BOIR Form for public comment. Notably, commenters were uniformly critical of the checkboxes that would allow a reporting company to indicate if certain information about a beneficial owner or company applicant is ''unknown,'' or if the reporting company is unable to identify information about a beneficial owner or company applicant. Commenters referred to these checkboxes as the ''unknown checkboxes.'' A significant number of these comments expressed concern that the checkboxes would incorrectly suggest to filers that it is optional to report required information, and that reporting companies need not conduct a diligent inquiry to comply with their reporting obligations. These commenters requested that FinCEN remove all such checkboxes.

In response to the comments, FinCEN is pursuing a revised approach to the BOIR Form that will not contain unknown checkboxes. This approach will consist of a first implementation will be used starting January 1, 2024, and a potential alternative implementation, which may be adopted a later date following feedback from filers, law enforcement agencies, and other key stakeholders. In the first implementation, it will require every field to be completed (*i.e.,* have responses entered in text boxes), and the BOIR Form can only be submitted once each required field has been filled out. Any field left blank, whether intentionally or accidentally, will prevent the filer from submitting their BOIR Form. It is our hope that filers will find the filing process to be seamless, users of the database will determine that the information collected is accurate, and all stakeholders, including law enforcement, will find this implementation to be sufficiently straightforward, transparent, and efficient. Throughout the months after this approach is implemented, FinCEN will seek continual feedback from filers and database users.

FinCEN is cognizant that reporting companies could face difficulties in obtaining information promptly. To better understand this potential concern, FinCEN consulted with behavioral scientists at the General Services Administration, technology experts at the Department of the Treasury, and various others throughout the U.S. Government (USG) who have expertise around these issues. The consultations highlighted potential, though not inevitable, pitfalls in not providing an explanatory mechanism in the BOIR Form when a filer is unable to obtain certain required information. This might inadvertently discourage reporting companies from filing in a timely manner (or filing at all) because they do not have sufficient information. It may also incentivize reporting companies to file meaningless or untruthful information in certain fields to make a deadline. These difficulties also have the potential to significantly increase the volume of inquiries to FinCEN's Contact Center [5] from reporting companies that seek clarification of the filing requirements when they are unable to obtain BOI.

Bearing these potential concerns in mind, in addition to feedback from filers and database users in the months following implementation on January 1, 2024, FinCEN may consider an alternative implementation. The alternative implementation would have the same response fields that require the same information to be reported, and reporting companies would be required to provide accurate responses in every field to submit a filing. However, this implementation would provide a mechanism for filers to temporarily indicate if they are unable to provide certain information for certain reasons. Specifically, there would be a drop-down option in the Beneficial Owner(s) section that would allow filers to specify one of a few reasons why they are temporarily unable to provide a piece of information about a beneficial owner. FinCEN is considering several drop-down options, including (but not limited to): ''Cannot Contact BO''; ''BO Unresponsive''; ''BO Refused to Provide''; and ''Third Party Refused to Provide.'' Drop-down options will not be included in the other sections of the form (*i.e.,* Reporting Company Section and Company Applicant(s) Section). Forms whose filers select a drop-down option will be accepted into the filing system but will still be considered incomplete and non-compliant filings. Forms will only be considered complete and compliant once the missing information is subsequently added, the drop-down option is removed from each field, and the form is updated. FinCEN will be seeking feedback from database users, including filers and law enforcement on these options.

The advantage of the drop-down options would be to allow reporting companies to immediately submit all information available to them and indicate the specific reason why certain information is not available at the time of temporary filing. The drop-down options would not excuse reporting companies of their obligation to submit complete and truthful written responses for each field by the applicable filing deadline; all fields must be filled out before a reporting company has satisfied its reporting obligations.

The benefit of this implementation would be to: (1) provide a mechanism for the collection of some beneficial ownership information that would be of immediate use to law enforcement agencies and other authorized users of BOI; (2) provide insight into any common difficulties that might arise so that FinCEN can potentially provide guidance, frequently asked questions (FAQs), or follow-up with reporting companies or beneficial owners; and (3) provide notice for FinCEN that an incomplete report has been submitted and facilitate appropriate related follow-up. Further, in both implementations, FinCEN intends to make clear on the BOIR Form that reporting companies must provide all required information to satisfy their reporting obligations.

FinCEN's potential adoption of the drop-down implementation will be informed by feedback from stakeholders, including filers and law enforcement agencies. The filer experience, the usefulness of information for law enforcement, and the overall quality of the data reported to FinCEN will be some of the key metrics taken into consideration. Ultimately, any decision to adopt the alternative implementation with drop-down options, should it be pursued at all, would only be made after careful analysis of the initial implementation.

Equally as important, should FinCEN adopt the alternative implementation, FinCEN will issue guidance well in advance of any change and there will only ever be one of the implementations ''live'' that filers can see and use. FinCEN believes that this revised approach will best address the feedback from commenters and maintain appropriate flexibility to adapt the BOIR Form to meet the needs of filers,

[5] FinCEN expects to establish a Contact Center prior to January 1, 2024, to field questions about the BOI reporting requirements from reporting companies and other stakeholders.

database users, and other important stakeholders based on what FinCEN learns after the system becomes operational.

As previously stated, in both implementations of the form, FinCEN will make clear that reporting companies must provide all required information to satisfy their reporting obligations. The BOIR Form will include tool tips (*i.e.,* text boxes that will be displayed over a BOIR field or section), which will convey instructions, requirements, instructions, and clarifying information to assist the filer. The BOIR Form will also include a certification whereby filers must certify that the information furnished is true, correct, and complete. There will be compliance reminders, both in the BOIR Form and outside of it, that will remind filers about their obligation to report complete and updated BOI to FinCEN. FinCEN will also address this requirement in guidance documents and other materials, such as press releases, briefings, and FAQs.

Form: Beneficial ownership information report (BOIR).

Affected Public: Domestic entities that are: (1) corporations; (2) limited liability companies; or (3) created by the filing of a document with a secretary of state or any similar office under the law of a state or Indian tribe. Foreign entities that are: (1) corporations, limited liability companies, or other entities; (2) formed under the law of a foreign country; and (3) registered to do business in any state or Tribal jurisdiction by the filing of a document with a secretary of state or any similar office under the laws of a state or Indian tribe. The rule does not require corporations, limited liability companies, or other entities that are described in any of 23 specific exemptions [6] to file BOIRs, except that certain foreign legal entities that qualify as pooled investment vehicles must report the BOI of an individual who exercises substantial control over the pooled investment vehicle.[7]

Estimated Number of Respondents: As explained in detail in the final BOI reporting rule regulatory impact analysis (RIA), the number of entities that are reporting companies is difficult to estimate.[8] FinCEN assumes that all entities created or registered prior to the effective date of January 1, 2024, that are subject to the BOI reporting requirement will submit their initial BOIRs in Year 1 (2024), as required by the rule. Therefore, FinCEN estimates that 32,556,929 entities will submit initial BOIRs in Year 1 (2024).[9] In Year 2 (2025) and beyond, FinCEN estimates that the number of initial BOIRs filed will be 4,998,468 per year, which is the same estimate as the number of new entities per year that meet the definition of reporting company and are not exempt.[10] The total five-year average of expected initial BOIRs is 10,510,160. In order to estimate the total burden hours and costs associated with the reporting requirement, FinCEN further assesses a distribution of the reporting companies' beneficial ownership structure. FinCEN assumes that 59 percent of reporting companies will have a simple structure (*i.e.,* 1 beneficial owner who is also the company applicant), 36.1 percent will have an intermediate structure (*i.e.,* 4 beneficial owners and 1 company applicant), and 4.9 percent will have a complex structure (*i.e.,* 8 beneficial owners and 2 company applicants). FinCEN estimates that 6,578,732 updated BOIRs will be filed in Year 1 (2024), and 14,456,452 BOIRs will be filed annually in Year 2 (2025) and beyond.[11] The total five-year average of expected updated BOIRs is 12,880,908.

Frequency of Response: As required.[12]

Estimated Time per Respondent: FinCEN is relying on the analysis of the estimated time burden per respondent in the final BOI reporting rule, which accounts for comments received to the notice of proposed rulemaking (NPRM) that preceded the final BOI reporting rule.[13] Considering the comments and the final BOI reporting rule, it is apparent that the time burden for filing initial BOI reports will vary depending on the complexity of the reporting company's structure. FinCEN therefore estimates a range of time burdens associated with filing an initial BOIR to account for the likely variance among reporting companies. FinCEN estimates the average burden of reporting BOI as 90 minutes per response for reporting companies with simple beneficial ownership structures (40 minutes to read the form and understand the requirement, 30 minutes to identify and collect information about beneficial owners and company applicants, and 20 minutes to fill out and file the report, including attaching an image of an acceptable identification document for each beneficial owner and company applicant). FinCEN estimates the average burden of reporting BOI as 650 minutes per response for reporting companies with complex beneficial ownership structures (300 minutes to read the form and understand the requirement, 240 minutes to identify and collect information about beneficial owners and company applicants, and 110 minutes to fill out and file the report, including attaching an image of an acceptable identification document for each beneficial owner and company applicant). FinCEN estimates the average burden of updating such reports for reporting companies with simple beneficial ownership structures as 40 minutes per update (20 minutes to identify and collect information about beneficial owners or company applicants and 20 minutes to fill out and file the update). FinCEN estimates the average burden of updating such reports for reporting companies with complex beneficial ownership structures as 170 minutes per update (60 minutes to identify and collect information about beneficial owners or company applicants and 110 minutes to fill out and file the update). FinCEN also assesses that reporting companies with intermediate beneficial ownership structures will have a time burden that is the average of the time burden for reporting companies with simple structures and those with complex structures.

Estimated Total Reporting Burden Hours: FinCEN estimates that during Year 1 (2024), the filing of initial BOIRs will result in approximately 118,572,335 burden hours for reporting

[6] *See* 31 CFR 1010.380(c)(2).

[7] *See* 31 CFR 1010.380(b)(2)(iii). The special reporting rule for foreign pooled investment vehicle specifies that, ''[i]f more than one individual exercises substantial control over the entity, the entity shall report information with respect to the individual who has the greatest authority over the strategic management of the entity.''

[8] Refer to the final BOI reporting rule RIA for a detailed description of these estimates. *See* 87 FR 59589 (Sept. 30, 2022).

[9] Refer to the final BOI reporting rule RIA cost analysis for the underlying sources and analysis related to this estimate. *See* 87 FR 59562–59579 (Sept. 30, 2022).

[10] Refer to the final BOI reporting rule RIA cost analysis for the underlying sources and analysis related to this estimate. As noted therein, for analysis purposes FinCEN assumes that the number of new entities per year from years 2 through 10 (2025 to 2033) will be the same as the 2024 new entity estimate, which accounts for a growth factor of 13.1 percent per year from the date of the underlying source (2020) through 2024. Annually thereafter, FinCEN assumes no change in the number of new entities. FinCEN provides an alternative cost analysis in the conclusion section where the 13.1 percent growth factor continues throughout the entire 10-year time horizon of the analysis (*i.e.,* through 2033). However, this growth factor is possibly an overestimate given that it is a based on a relatively narrow timeframe of data (two years). *See* 87 FR 59562–59579 (Sept. 30, 2022).

[11] Refer to the final BOI reporting rule RIA cost analysis for the underlying sources and analysis related to these estimates. *See* 87 FR 59562–59579 (Sept. 30, 2022).

[12] For BOI reports, there is an initial filing and subsequent filings; the latter are required as information changes or if previously reported information was incorrect.

[13] 86 FR 69920 (Dec. 8, 2021).

companies.[14] In Year 2 (2025) and beyond, FinCEN estimates that the filing of initial BOIRs will result in 18,204,421 burden hours annually for new reporting companies.[15] The five-year average of burden hours for initial BOIRs is 38,278,004 hours. FinCEN estimates that filing updated BOIRs in Year 1 (2024) will result in approximately 7,657,096 burden hours for reporting companies.[16] In Year 2 (2025) and beyond, the estimated number of burden hours for updated reports will be 16,826,105.[17] The five-year average of burden hours for updated BOIRs is 14,992,203 hours. The total five-year average of burden hours for BOIRs is 53,270,307.

Estimated Total Reporting Cost: Considering the comments received in response to the NPRM, the final BOI reporting rule states that the costs for filing initial BOIRs will vary depending on the complexity of a reporting company's structure. FinCEN therefore estimates a range of costs associated with filing an initial BOIR to account for the likely variance among reporting companies. FinCEN estimates the average cost of filing an initial BOIR per reporting company to be a range of $85.14 for entities with simple beneficial ownership structures to $2,614.87 for entities with complex beneficial ownership structures.[18] FinCEN estimates the average cost of filing an updated BOIR per reporting company to be $37.84 to $560.81.[19]

For initial BOIRs, the range of total costs in Year 1 (2024), assuming for the lower bound that all reporting companies are simple structures and assuming for the upper bound that all reporting companies are complex structures, is $2.8 billion to $85.1 billion.[20] Applying the distribution of reporting companies' structures explained in connection with Table 1 of the RIA, FinCEN calculates total costs in Year 1 (2024) of initial BOIRs to be $21.7 billion.[21] In Year 2 (2025) and onward, in which FinCEN assumes that initial BOIRs will be filed by newly created entities, the range of total costs is $425.6 million to $13.1 billion annually.[22] Applying the reporting companies' structure distribution, the estimated total cost of initial BOIRs annually in Year 2 (2025) and onward is $3.3 billion.[23] [24]

For updated BOIRs, the range of total costs in Year 1 (2024), assuming for the lower bound that all reporting companies are simple structures and assuming for the upper bound that all reporting companies are complex structures, is $249 million to $3.7 billion.[25] Applying the distribution of reporting companies' structures, FinCEN calculates total costs in Year 1 (2024) of updated BOIRs to be $1 billion.[26] In Year 2 (2025) and onward, the range of total costs is $547 million to $8.1 billion annually.[27] Applying the reporting companies' structure distribution, the estimated total cost of updated BOIRs annually in Year 2 (2025) and onward is $2.3 billion.[28] The total five-year average of costs is $6,996,732,512 for initial BOIRs and $2,033,391,518 for updated BOIRs.

Please note, there are no non-labor costs associated with these collections of information, because FinCEN assumes that reporting companies already have the necessary equipment and tools to comply with the regulatory requirements.

Request for Comments

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. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

Appendix—Beneficial Ownership Information (BOI) Report Summary of Data Fields

Note: Lines that must be filled in for a report to be accepted are identified with the * symbol next to the line number. *Italicized text* provides a description and/or explanation of lines and response options for purposes of this PRA notice.

Filing Information

1. * Type of filing *(check only one box for lines 1a–1d)*
   a. Initial report *(check if reporting for the first time: if this box is checked, proceed to line 2)*
   b. Correct prior report *(check to amend information that was inaccurate and/or incomplete when reported in a prior report; if this box is checked, then you must fill out lines 1e–1h (Reporting Company information associated with most recent report))*
   c. Update prior report *(check to report a change in beneficial ownership information; if this box is checked, then you must fill out lines 1e–1h (Reporting Company information associated with most recent report))*
   d. Newly exempt entity *(check if company previously filed a report and now qualifies for an exemption to the definition of Reporting Company; if this box is checked, then you must fill out lines 1e–1h (Reporting Company*

[14] ((0.59 × 32,556,929) × (90/60)) + ((0.361 × 32,556,929) × (370/60)) + ((0.049 × 32,556,929) × (650/60)) = 118,572,335.

[15] ((0.59 × 4,998,468) × (90/60)) + ((0.361 × 4,998,468) × (370/60)) + ((0.049 × 4,998,468) × (650/60)) = 18,204,421.

[16] ((0.59 × 6,578,732) × (40/60)) + ((0.361 × 6, 578,732) × (105/60)) + ((0.049 × 6, 578,732) × (170/60)) = 7,657,096.

[17] ((0.59 × 14,456,452) × (40/60)) + ((0.361 × 14,456,452) × (105/60)) + ((0.049 × 14,456,452) × (170/60)) = 16,826,105.

[18] (90/60) × $56.76 = $85.14 and ((650/60) × $56.76) + $2,000 = $2,614.87.

[19] (40/60) × $56.76 = $37.84 and ((170/60) × $56.76) + $400 = $560.81.

[20] (32,556,929 × $85.14) = $2,771,769,963.58 and (32,556,929 × $2,614.87) = $85,132,196,638.53.

[21] ((0.59 × 32,556,929) × $85.14) + ((0.361 × 32,556,929) × $1,350.00) + ((0.049 × 32,556,929) × $2,614.87) = $21,673,487,885.48.

[22] (4,998,468 × $85.14) = $425,550,075.79 and (4,998,468 × $2,614.87) = $13,070,353,315.07.

[23] ((0.59 × 4,998,468) × $85.14) + ((0.361 × 4,998,468) × $1,350.00) + ((0.049 × 4,998,468) × $2,614.87) = $3,327,532,419.21.

[24] FinCEN assumes that each reporting company will make one initial BOIR. Given the implementation period of one year to comply with the rule for entities that were formed or registered prior to the effective date of the final BOI reporting rule, FinCEN assumes that all the entities that meet the definition of reporting company will submit their initial BOIRs in Year 1 (2024), totaling 32.6 million reports. Additionally, FinCEN has applied a 6.83 percent growth factor each year since the date of the underlying source (2020) to account for the creation of new entities. For analysis purposes, FinCEN assumes that the number of new entities per year from years 2 through 10 (2025 to 2033) will be the same as the 2024 new entity estimate, which accounts for a growth factor of 13.1 percent per year from the date of the underlying source (2020) through 2024. Annually thereafter, FinCEN assumes no change in the number of new entities. FinCEN provides an alternative cost analysis in the conclusion section where the 13.1 percent growth factor continues throughout the entire 10-year time horizon of the analysis (*i.e.,* through 2033). However, this growth factor is possibly an overestimate given that it is a based on a relatively narrow timeframe of data (two years).

[25] (6,578,732 × $37.84) = $248,927,811.14 and (6,578,732 × $560.81) = $3,689,435,948.74.

[26] ((0.59 × 6,578,732) × $37.84) + ((0.361 × 6,578,732) × $299.33) + ((0.049 × 6,578,732) × $560.81) = $1,038,524,428.72.

[27] (14,456,452 × $37.84) = $547,007,086.12 and (14,456,452 × $560.81) = $8,107,360,919.04.

[28] ((0.59 × 14,456,452) × $37.84) + ((0.361 × 14,456,452) × $299.33) + ((0.049 × 14,456,452) × $560.81) = $2,282,108,290.77.

information associated with most recent report) and no other lines in the report)

Reporting Company information associated with most recent report, if any: *(when the type of filing is ''Correct prior report'' (line 1b), ''Update prior report'' (line 1c), or ''Newly exempt entity'' (line 1d), lines 1e–1h must be completed in order to link the new filing to the previous filing)*

e. Legal name

f. Tax identification type *(select one from list of options)*

- EIN (Employer Identification Number)
- SSN/ITIN (Social Security Number/Individual Taxpayer Identification Number)
- Foreign

g. Tax identification number

h. Country/Jurisdiction (if foreign tax ID only) *(select from list of countries/jurisdictions)*

2. Date prepared (auto-filled when form is finalized) (*line 2 populates automatically with the date when the filer selects ''Finalize'' on the form*)

Part I. Reporting Company Information

3. Request to receive FinCEN Identifier (FinCEN ID) *(check the box to receive a FinCEN ID)*
4. Foreign pooled investment vehicle *(check the box if Reporting Company is a foreign pooled investment vehicle)*

Full legal name and alternate name(s):

5. * Reporting Company legal name
6. Alternate name (*e.g.,* trade name, DBA) *(multiple alternate names may be reported)*

Form of identification:

7. * Tax identification type *(select one from list of options)*
   - EIN (Employer Identification Number)
   - SSN/ITIN (Social Security Number/Individual Taxpayer Identification Number)
   - Foreign
8. * Tax identification number
9. Country/Jurisdiction (if foreign tax ID only) *(select from list of countries/jurisdictions)*

Jurisdiction of formation or first registration:

10. * a. Country/Jurisdiction of formation (*select from list of countries/jurisdictions, including the United States, each U.S. Territory,*[1] *and all foreign countries. If United States is selected, complete lines 10b, 10c, or 10d as applicable; if a U.S. Territory is selected, line 10b populates automatically with the selected U.S. Territory; if a foreign country is selected, complete lines 10e, 10f, or 10g as applicable.*)

Domestic Reporting Company:

b. State of formation *(select from list of U.S. States; if a U.S. Territory was selected in line 10a, line 10b populates automatically with the selected U.S. Territory)*

c. Tribal jurisdiction of formation *(select from list of Tribes and ''Other Tribe'')*

d. Name of the other Tribe *(enter name of the other Tribe not included in list for line 10c, only available if ''Other Tribe'' selected in line 10c)*

Foreign Reporting Company:

e. State of first registration *(select from list of U.S. States and U.S. Territories)*

f. Tribal jurisdiction of first registration *(select from list of Tribes and ''Other Tribe'')*

g. Name of the other Tribe *(enter name of the other Tribe not included in list for line 10f, only available if ''Other Tribe'' selected in line 10f)*

Current U.S. address *(street address):*

11. * Address (number, street, and apt. or suite no.)
12. * City
13. * U.S. or U.S. Territory *(select U.S.; or U.S. Territory from list of U.S. Territories)*
14. * State *(select from list of U.S. States; if a U.S. Territory was selected in line 13, line 14 populates automatically with the selected U.S. Territory)*
15. * ZIP Code
16. Existing Reporting Company (check if Reporting Company was created or registered before January 1, 2024) *(if this box is checked, then Company Applicant information is not required, proceed to Part III)*

Part II. Company Applicant Information

(report up to two Company Applicants, lines 17–32 are repeated for each Company Applicant; if Existing Reporting Company was checked in line 16, Company Applicant information is not required, proceed to Part III.)

Company Applicant FinCEN ID:

17. FinCEN ID *(if FinCEN Identifier is not provided, information about the Company Applicant must be provided in the lines below)*

Full legal name and date of birth:

18. * Individual's last name
19. * First name
20. Middle name *(required if the Company Applicant has a middle name)*
21. Suffix *(required if the Company Applicant's name has a suffix)*
22. * Date of birth

Current address (*street address):*

23. * Address type *(check the appropriate box for lines 23a or 23b)*
    a. Business address
    b. Residential address
24. * Address (number, street, and apt. or suite no.)
25. * City
26. * Country/Jurisdiction *(select from list of countries/jurisdictions)*
27. * State (*select from list when United States, Canada, or Mexico was selected in line 26; if a U.S. Territory was selected in line 26, line 27 populates automatically with the selected U.S. Territory; if a foreign country was selected in line 26, line 27 remains empty*)
28. * ZIP/Foreign postal code

Form of identification and issuing jurisdiction:

29. * Identifying document type *(select one from list of lines 29a–29d)*
    a. State-issued driver's license
    b. State/local/Tribe-issued ID
    c. U.S. passport
    d. Foreign passport *(may only be provided if individual does not possess document type listed in line 29a, 29b, or 29c.)*
30. * Identifying document number
31. * Identifying document issuing jurisdiction *(select country/jurisdiction in line 31a and complete lines 31b-31d if applicable)*
    a. Country/Jurisdiction *(select from list of countries/jurisdictions)*
    b. State *(select from list when the United States was selected in line 31a and the identifying document is issued by a State; if a U.S. Territory was selected in line 31a, line 31b populates automatically with the selected U.S. Territory; if a foreign country was selected in line 31a, line 31b remains empty)*
    c. Local/Tribal *(select from list when the United States was selected in line 31a and the identifying document is issued by a local jurisdiction or Tribe; if local jurisdiction or Tribe is not included in list, select ''Other'' and go to line 31d; if a U.S. territory or foreign country was selected in line 31a, line 31c remains empty)*
    d. Other local/Tribal name *(only available if ''Other'' selected in line 31c; enter name of local jurisdiction or Tribe that was not included in the list for line 31c)*
32. * Identifying document image *(attach image of identifying document referred to in lines 30–32) (instructions on upload process will be provided here)*

Part III. Beneficial Owner Information

(*multiple Beneficial Owners may be reported, lines 33–49 are repeated for each Beneficial Owner*)

33. Parent/Guardian information instead of minor child (check if the Beneficial Owner is a minor child and the parent/guardian information is provided instead)

Beneficial Owner FinCEN ID:

34. FinCEN ID *(if FinCEN Identifier is not provided, information about the Beneficial Owner must be provided in the lines below)*

Exempt entity:

35. Exempt entity *(check the box when an exempt entity is being reported in lieu of a Beneficial Owner's information; if checked, provide the legal name of the exempt entity in line 36, and lines 37–39 are grayed out)*

Full legal name and date of birth:

36. * Individual's last name *(or* entity's legal name *if line 35 box is checked)*
37. * First name
38. Middle name *(required if the Beneficial Owner has a middle name)*
39. Suffix *(required if the Beneficial Owner's name has a suffix)*
40. * Date of birth

Residential address *(street address):*

41. * Address (number, street, and apt. or suite no.)
42. * City

[1] U.S. Territories are considered part of the United States for purposes of determining the reporting obligations of domestic and foreign Reporting Companies. However, per ISO standard 3166–1, U.S. Territories are listed as jurisdictions separate from the United States for database management purposes.

43. * Country/Jurisdiction *(select from list of countries/jurisdictions)*
44. * State *(select from list when United States, Canada, or Mexico was selected in line 43; if a U.S. Territory was selected in line 43, line 44 populates automatically with the selected U.S. Territory; if a foreign country was selected in line 43, line 44 remains empty)*
45. * ZIP/Foreign postal code

Form of identification and issuing jurisdiction:

46. * Identifying document type *(select one from list of lines 46a–46d)*
    a. State-issued driver's license
    b. State/local/Tribe-issued ID
    c. U.S. passport
    d. Foreign passport *(may only be provided if individual does not possess document type listed in line 46a, 46b, or 46c)*
47. * Identifying document number
48. * Identifying document issuing jurisdiction *(select country/jurisdiction in line 48a and complete lines 48b–48d if applicable)*
    a. Country/Jurisdiction *(select from list of countries/jurisdictions)*
    b. State *(select from list when the United States was selected in line 48a and the identifying document is issued by a State; if a U.S. Territory was selected in line 48a, line 48b populates automatically with the selected U.S. Territory; if a foreign country was selected in line 48a, line 48b remains empty)*
    c. Local/Tribal *(select from list when the United States was selected in line 48a and the identifying document is issued by a local jurisdiction or Tribe (if local jurisdiction or Tribe is not included in the list, select ''Other'' and go to line 48d); if a U.S. Territory or foreign country was selected in line 48a, line 48c remains empty)*
    d. Other local/Tribal name *(only available if ''Other'' selected in line 48c; enter name of local jurisdiction or Tribe that was not included in list for line 48c)*
49. * Identifying document image *(attach image of identifying document referred to in in lines 46–48) (instructions on upload process will be provided here)*

Summary of Data Fields for the Potential Second Implementation: Part III (Beneficial Owner Information)

Part III. Beneficial Owner Information

(*multiple Beneficial Owners may be reported, lines 33–49 are repeated for each Beneficial Owner*)

33. Parent/Guardian information instead of minor child (check if the Beneficial Owner is a minor child and the parent/guardian information is provided instead)

Beneficial Owner FinCEN ID:

34. FinCEN ID *(if FinCEN Identifier is not provided, information about the Beneficial Owner must be provided in the lines below)*

Exempt entity:

35. Exempt entity *(check the box when an exempt entity is being reported in lieu of a Beneficial Owner's information; if checked, provide the legal name of the exempt entity in line 36, and lines 37–39 are grayed out)*

Full legal name and date of birth:

36. * Individual's last name *(or* entity's legal name *if line 35 box is checked)*
    z. (*if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values* [2])
37. * First name
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*
38. Middle name *(required if the Beneficial Owner has a middle name)*
39. Suffix *(required if the Beneficial Owner's name has a suffix)*
40. * Date of birth
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*

Residential address *(street address):*

41. * Address (number, street, and apt. or suite no.)
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*
42. * City
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*
43. * Country/Jurisdiction *(select from list of countries/jurisdictions)*
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*
44. * State *(select from list when United States, Canada, or Mexico was selected in line 43; if a U.S. Territory was selected in line 43, line 44 populates automatically with the selected U.S. Territory; if a foreign country was selected in line 43, line 44 remains empty)*
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*
45. * ZIP/Foreign postal code
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*

Form of identification and issuing jurisdiction:

46. * Identifying document type *(select one from list of lines 46a–46d)*
    e. State-issued driver's license
    f. State/local/Tribe-issued ID
    g. U.S. passport
    h. Foreign passport *(may only be provided if individual does not possess document type listed in line 46a, 46b, or 46c)*
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*
47. * Identifying document number
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*
48. * Identifying document issuing jurisdiction *(select country/jurisdiction in line 48a and complete lines 48b-48d if applicable)*
    b. Country/Jurisdiction *(select from list of countries/jurisdictions)*
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*
    c. State *(select from list when the United States was selected in line 48a and the identifying document is issued by a State; if a U.S. Territory was selected in line 48a, line 48b populates automatically with the selected U.S. Territory; if a foreign country was selected in line 48a, line 48b remains empty)*
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*
    c. Local/Tribal *(select from list when the United States was selected in line 48a and the identifying document is issued by a local jurisdiction or Tribe (if local jurisdiction or Tribe is not included in the list, select ''Other'' and go to line 48d); if a U.S. Territory or foreign country was selected in line 48a, line 48c remains empty)*
    z. *(if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*
    d. Other local/Tribal name *(only available if ''Other'' selected in line 48c; enter name of local jurisdiction or Tribe that was not included in list for line 48c)*
49. * Identifying document image *(attach image of identifying document referred to in in lines 46–48) (instructions on upload process will be provided here) (if you are not able to obtain this information about the Beneficial Owner, select the appropriate reason from the drop-down list of values)*

[FR Doc. 2023–21293 Filed 9–28–23; 8:45 am]

BILLING CODE 4810–02–P

[2] FinCEN is considering several drop-down options, including (but not limited to): ''Cannot Contact BO''; ''BO Unresponsive''; ''BO Refused to Provide''; and ''Third Party Refused to Provide.''

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Bureau of Fiscal Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury 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. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before October 30, 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)

1. Title: Annual Financial Statement of Surety Companies—Schedule F.

OMB Number: 1530–0008.

Form Number: FS Form 6314.

Abstract: The form provides information used to determine the amount of unauthorized reinsurance of Treasury approved Admitted Reinsurers. This computation is necessary to ensure the solvency of companies recognized by the Treasury to write Federal surety bonds, and their ability to carry out contractual requirements.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 317.

Estimated Average Time per Respondent: 20.5.

Estimated Total Annual Burden Hours: 6,499.

2. Title: Authorization Agreement for Preauthorized Payment.

OMB Number: 1530–0015.

Form Number: SF 5510.

Abstract: The form is used to collect information from remitters (individuals and corporations) to authorize electronic fund transfers from accounts maintained at financial institutions to collect monies for government agencies.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit, individuals or households, Federal Government.

Estimated Number of Respondents: 100,000.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 16,667.

(Authority: 44 U.S.C. 3501 *et seq.*)

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2023–21312 Filed 9–28–23; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Individual FinCEN Identifier Application

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of information collection; request for comments.

SUMMARY: The Department of the Treasury, on behalf of the Financial Crimes Enforcement Network (FinCEN), will submit the individual FinCEN identifier application information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (PRA), on or after the date of publication of this notice. The details included in the information collection are listed below. The public is invited to submit comments on this information collection request.

DATES: Written comments should be received on or before October 30, 2023.

ADDRESSES: Written comments on 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 Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

I. Statutory and Regulatory Provisions

FinCEN issued the Beneficial Ownership Information Reporting Requirements final rule on September 30, 2022 (final BOI reporting rule).[1] The final BOI reporting rule requires certain legal entities to report to FinCEN information about themselves as well as information about the beneficial owners of the entity. Entities created or registered to do business on or after January 1, 2024, must also identify the individual who directly filed the document with specified governmental authorities that created the entity or registered it to do business, as well as the individual who was primarily responsible for directing or controlling such filing if more than one individual was involved in the filing of the document. Further, the regulations describe who must file a report, what information must be provided, and when a report is due. Entities must certify that the report is true, correct, and complete.

The rule also sets out various requirements for individuals and entities that seek to obtain a FinCEN identifier, which can be used in certain circumstances as a substitute for other information required to be reported.[2]

These regulations implement Section 6403 of the Corporate Transparency Act (CTA), enacted into law as part of the National Defense Authorization Act for Fiscal Year 2021 (NDAA).[3] That statutory provision, its implementing regulations, and their requirements are intended to help prevent and combat money laundering, terrorist financing, corruption, tax fraud, and other illicit activity, while minimizing the burden on reporting entities.

II. Paperwork Reduction Act of 1995 [4]

Title: Individual FinCEN Identifiers.

OMB Control Number: 1506–0076.

Type of Review: New collection.

Description: The final BOI reporting rule requires individuals seeking to obtain a FinCEN identifier to submit certain information to FinCEN. This is a voluntary collection. Individuals are not required to obtain FinCEN identifiers. In order to be issued a FinCEN identifier, however, the final

[1] 87 FR 59498 (Sept. 30, 2022).

[2] *See* 31 CFR 1010.380(b)(4). ''FinCEN identifier'' means the unique identifying number assigned by FinCEN to an individual or reporting company upon request, subject to certain conditions.

[3] Specifically, the CTA is Title LXIV of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283 (Jan. 1, 2021). Division F of the NDAA is the Anti-Money Laundering Act of 2020, which includes the CTA. Section 6403 of the CTA, among other things, amended the Bank Secrecy Act (BSA) by adding a new section 5336, Beneficial Ownership Information Reporting Requirements, to subchapter II of chapter 53 of title 31, United States Code.

[4] Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

BOI reporting rule requires individuals to file applications electronically with FinCEN that contain certain information about themselves. Individuals are also required to submit updates of their identifying information as needed. FinCEN will store such information in its beneficial ownership information (BOI) database for access by authorized users. Entities will not use the FinCEN identifier application to request a FinCEN identifier; instead, entities will request a FinCEN identifier when they submit a BOI report.[5]

Form: Individual FinCEN Identifier Application.

Affected Public: Any individuals who meet the criteria set forth in the final BOI reporting rule may apply for a FinCEN identifier. The primary reasons for individual beneficial owners to apply for a FinCEN identifier likely include data security (where an individual may see less risk in submitting personal identifiable information to FinCEN directly, compared with doing so indirectly through one or more reporting companies) and administrative efficiency (where an individual is likely to be identified as a beneficial owner of numerous reporting companies). Company applicants who are responsible for registering many reporting companies may have a similar incentive to request a FinCEN identifier in order to limit the number of companies with access to their personal information.

Estimated Number of Respondents: FinCEN estimates that the number of individuals who will apply for a FinCEN identifier will likely be relatively low. Specifically, FinCEN estimates that number to be approximately 1 percent of the estimated number of reporting companies expected to report BOI. FinCEN assumes that, similar to reporting companies' initial filings, there would be an initial influx of applications for a FinCEN identifier that would then decrease to a smaller annual rate of requests after Year 1 (2024). Therefore, FinCEN estimates that 325,569 individuals will apply for a FinCEN identifier during Year 1 (2024), and 49,985 individuals will apply for a FinCEN identifier annually thereafter.[6] The total five-year average of expected FinCEN identifier applications is 105,102. To estimate the number of updated reports for individuals' FinCEN identifier information per year, FinCEN used the methodology explained in the final BOI reporting rule to calculate, and then total, monthly updates based on the number of FinCEN identifier applications received in Year 1 (2024). FinCEN applied the monthly probability of 0.0068021 (8.16 percent, the annual likelihood of a change in address, divided by 12 to find a monthly rate). This analysis estimated 12,180 updates in Year 1 (2024) and 26,575 annually thereafter.[7] The total five-year average of estimated FinCEN identifier updates is 23,696.

Frequency of Response: As required.

Estimated Time per Respondent: FinCEN anticipates that initial FinCEN identifier applications would require approximately 20 minutes (10 minutes to read the form and understand the information required, and 10 minutes to fill out and file the request, including attaching an image of an acceptable identification document), given that the information to be submitted to FinCEN would be readily available to the person requesting the FinCEN identifier. FinCEN estimates that updates would require 10 minutes (10 minutes to fill out and file the update).

Estimated Total Reporting Burden Hours: FinCEN estimates the total burden hours of individuals initially applying for a FinCEN identifier during Year 1 (2024) to be 108,535,[8] with an annual burden of 16,662 hours thereafter.[9] The five-year average of initial application burdens is 35,034 hours. FinCEN estimates the burden hours of individuals updating information related to FinCEN identifiers to be 2,030 in Year 1 (2024),[10] with an annual burden of 4,429 hours thereafter.[11] The five-year average of updated application burdens is 3,949 hours. The total five-year average of time burdens is 38,983.

Estimated Total Reporting Cost: The total cost of FinCEN identifier applications for individuals in Year 1 (2024) is estimated to be $6.2 million, with an annual cost of $945,667 thereafter.[12] The five-year average cost of initial applications is $1,988,431. The total cost of FinCEN identifier updates for individuals in Year 1 (2024) is estimated to be $115,219, with an annual cost of $251,386 thereafter.[13] The five-year average cost of updated applications is $224,153. The total five-year average cost is $2,212,584.

Request for Comments: 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. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

Appendix—FinCEN Identifier Application Summary of Data Fields

Note: Form is only available to persons who have already obtained *login.gov* accounts and have signed in through *login.gov.* Lines that must be filled in for a report to be accepted are identified with the * symbol next to the line number. *Italicized text* provides a description and/or explanation of lines and response options for purposes of this PRA notice.

Filing Information

1. FinCEN ID (*assigned by FinCEN and cannot be edited; populates automatically if individual has already applied for and received a FinCEN Identifier, based on the linkage; empty if filer has not already received a FinCEN Identifier*)

2. Date Last Amended (*assigned by FinCEN and cannot be edited; populates automatically with the date the information associated with the FinCEN Identifier was last updated if individual has already applied for and received a FinCEN Identifier, based on the linkage between login.gov account and FinCEN Identifier assigned to the account; line 2 is empty if filer has not already received a FinCEN Identifier*)

Part I. Individual Information

Full Legal Name and Date of Birth:

3. * First name

4. Middle name *(required if individual has a middle name)*

5. * Last name

[5] FinCEN is not separately calculating a cost estimate for entities requesting a FinCEN identifier, because FinCEN assumes this would already be accounted for in the process and cost of submitting the BOI reports.

[6] 32,556,929 × 0.01 = 325,569 and 4,998,468 × 0.01 = 49,985, respectively.

[7] Refer to the final BOI reporting rule RIA cost analysis for the underlying sources and analysis related to these estimates. *See* 87 FR 59562–59579 (Sept. 30, 2022).

[8] 325,569 × (20/60) = 108,535.

[9] 49,985 × (20/60) = 16,662.

[10] 12,180 × (10/60) = 2,030.

[11] 26,575 × (10/60) = 4,429.

[12] ($56.76 × (20/60)) × 325,569 = $6,159,488.81 and ($56.76 × (20/60)) × 49,985 = $945,666.84.

[13] ($56.76 × (10/60)) × 12,180 = $115,218.68 and ($56.76 × (10/60)) × 26,575 = $251,386.22.

6. Suffix (*required if the individual's name has a suffix*)

7. * Date of birth

Current address: (report both business address and residential address if the FinCEN ID will be used for both a Company Applicant and a Beneficial Owner)

8. * Address type *(check the box that applies to the type of address to be provided in lines 9–13)*

a. Residential address

b. Business address

9. * Address (number, street, and apt. or suite no.)

10. * City

11. * Country/Jurisdiction *(select from list of countries/jurisdictions)*

12. * State *(select from list when United States, Canada, or Mexico was selected in line 11; if a U.S. Territory was selected in line 11, line 12 populates automatically with the selected U.S. Territory; if a foreign country was selected in line 11, line 12 remains empty)*

13. * ZIP/Foreign postal code

Form of Identification and Issuing Jurisdiction:

14. * Identifying document type *(select one from list of lines 14a–14d)*

a. State-issued driver's license

b. State/local/Tribe-issued ID

c. U.S. passport

d. Foreign passport *(can only be provided if individual does not possess document type listed in 14a, 14b, or 14c)*

15. * Identifying document number

16. * Identifying document issuing jurisdiction *(select country/jurisdiction in line 16a and complete lines 16b–16d if applicable)*

a. Country/Jurisdiction*(select from list of countries/jurisdictions)*

b. State *(select from list when the United States was selected in line 16a and the identifying document is issued by a State; if a U.S. Territory was selected in line 16a, line 16b populates automatically with the selected U.S. Territory; if a foreign country was selected in line 16a, line 16b remains empty)*

c. Local/Tribal (*select from list when the United States was selected in line 16a and the identifying document is issued by a local jurisdiction or Tribe; if local jurisdiction or Tribe is not included in the list, select ''Other'' and go to line 16d; if a U.S. Territory or foreign country was selected in line 16a, line 16c remains empty)*

d. Other local/Tribal name *(enter name of local jurisdiction or Tribe that was not included in the list for line 16c)*

17. * Identifying document image *(attach image of identifying document referred to in lines 14–16) (upload instructions will be provided here)*

Certification

18. * I certify that the information furnished is true, correct, and complete. I understand that the willful provision to FinCEN of false or fraudulent information in this application may result in civil or criminal penalties.

a. I agree *(check the box to certify)*

[FR Doc. 2023–21325 Filed 9–28–23; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Tax and Trade Bureau Information Collection Requests

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury 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. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before October 30, 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 Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Alcohol and Tobacco Tax and Trade Bureau (TTB)

(1) Title: Tax Information Authorization.

OMB Control Number: 1513–0001.

Type of Review: Extension without change of a currently approved collection.

Description: In general, the Internal Revenue Code (IRC) at 26 U.S.C. 6103 protects the privacy of taxpayer information by, among other things, prohibiting the disclosure of tax returns and taxpayer information to unauthorized persons. However, under 26 U.S.C. 6103(c), a taxpayer may authorize a representative to receive otherwise confidential tax information. Under that IRC authority and the related Department of Treasury regulations, the Alcohol and Tobacco Tax and Trade Bureau (TTB) requires a taxpayer to file form TTB F 5000.19 to authorize a representative, who does not have a power of attorney, to receive otherwise confidential information regarding the taxpayer. TTB uses the information provided on this form to properly identify the taxpayer's designated representative and the scope of that representative's authority to obtain otherwise confidential information about the taxpayer.

Form: TTB F 5000.19.

Affected Public: Businesses or other for-profits, Individuals or households.

Estimated Number of Respondents: 10.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 10.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 10.

(2) Title: Referral of Information.

OMB Control Number: 1513–0013.

Type of Review: Extension without change of a currently approved collection.

Description: Alcohol and Tobacco Tax and Trade Bureau (TTB), during the course of their duties, sometimes discover apparent violations of statutes and regulations under the jurisdiction of State and local government agencies. Using form TTB F 5000.21, Referral of Information, TTB personnel submit information regarding such violations to such external agencies, if disclosure is authorized under 26 U.S.C. 6103 or other Federal laws. The referral form includes a section for the external agency to respond to TTB regarding its action on the referral. This form provides TTB with a consistent means of conveying relevant information to external agencies, and it facilitates information-sharing between TTB and external agencies to support enforcement efforts. The response that TTB requests from these State and local government agencies also provides information as to the utility of the referrals and potential enforcement actions that these external agencies take against the same entities that TTB regulates.

Form: TTB F 5000.21.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 100.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 100.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 100.

(3) Title: Principal Place of Business Address and Place of Production Coding on Beer and Malt Beverage Labels, TTB REC 5130/5.

OMB Control Number: 1513–0085.

Type of Review: Extension without change of a currently approved collection.

Description: Under the authority of the Internal Revenue Code (IRC) at 26 U.S.C. 5412 and the Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e), the TTB regulations require consumer containers of beer to be marked with the name and address of the brewer. Specific to this information collection, in the case of brewers that operate multiple breweries, the TTB regulations in 27 CFR parts 7 and 25 allow brewers to label beer containers with their principal place of business, provided that the brewer also places a code on each beer container indicating its actual place of production. This option allows multi-plant brewers to use an identical label at all of their breweries. The labeling of beer containers with the producer's name and place of production is a usual and customary business practice undertaken by brewers to identify their products to consumers and facilitate recall of adulterated products. In addition, TTB uses the required information to verify tax refund claims submitted by brewers for the loss or destruction of beer.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 2,725.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 2,725.

Estimated Time per Response: None. The requirement is customary and usual business practice that imposes no additional burden on respondents.

Estimated Total Annual Burden Hours: None.

(4) Title: Petitions to Establish or Modify American Viticultural Areas.

OMB Control Number: 1513–0127.

Type of Review: Extension without change of a currently approved collection.

Description: The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on alcohol beverage labels and ensure that such labels provide the consumer with adequate information as to the identity and quality of the product. Under that authority, TTB regulates the use of appellations of origin on wine labels, including the use of American viticultural area (AVA) names. In response to petitions submitted by interested parties, TTB establishes new AVAs or modifies existing AVAs through the rulemaking process. The TTB regulations in 27 CFR part 9 specify the information to be included in such petitions. TTB uses the provided information to evaluate a petitioner's proposal and, if accepted for rulemaking, TTB drafts a notice of proposed rulemaking requesting public comment regarding the creation of a new AVA or the amendment of the name, boundary, or other terms of an existing AVA.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 15.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 15.

Estimated Time per Response: 130 hours.

Estimated Total Annual Burden Hours: 1,950.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2023–21482 Filed 9–28–23; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0165]

Agency Information Collection Activity Under OMB Review: Financial Status Report

AGENCY: Debt Management Center, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Debt Management Center, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link *www.reginfo.gov/public/do/PRAMain, select* ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0165.''

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0165'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 5 U.S.C. 5514; 38 U.S.C. 5302; 38 U.S.C. 5314; 31 U.S.C. 3711; 38 U.S.C. 3716; 38 U.S.C. 3717; 38 U.S.C. 3718; 38 U.S.C. 5316

Title: Financial Status Report, VA Form 5655.

OMB Control Number: 2900–0165.

Type of Review: Revision of a currently approved collection.

Abstract: The major use of the form is to document and support eligibility determinations for waivers of collection, for the consideration of compromise offers, or to document information to assist in developing repayment plans.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 88 FR 130 on July 10, 2023, page 43651.

Affected Public: Individuals and households.

Estimated Annual Burden: 33,335.

Estimated Average Burden per Respondent: 60 minutes.

Frequency of Response: Annual.

Estimated Number of Respondents: 33,335.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–21454 Filed 9–28–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0098]

Agency Information Collection Activity: Dependents' Application for VA Education Benefits

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 28, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0098'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0098'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U. S. C. 3311 (as amended by Pub. L. 113–146, section 701, effective August 7, 2014), 3513, 3697A, 5113, 5101, 5102, and 5103; 38 CFR 21.3030 and 21.9510.

Title: Dependents' Application for VA Education Benefits, VAF 22–5490.

OMB Control Number: 2900–0098.

Type of Review: Revision of a currently approved collection.

Abstract: The VA's Veterans Claims Examiners use the information from this collection to help determine whether a claimant qualifies for DEA or Fry Scholarship benefits. The information on the form can be obtained only from the claimant, and an eligibility determination cannot be made without the information.

Affected Public: Individuals or Households.

Estimated Annual Burden: 48,983 hours.

Estimated Average Burden Time per Respondent: 45 and 25 min.,(paper and electronic, respectively).

Frequency of Response: Once.

Estimated number of Respondents: 83,972.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–21545 Filed 9–28–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0059]

Agency Information Collection Activity Under OMB Review: Statement of Person Claiming to Have Stood in Relation of Parent (VA Form 21P–524)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–0059.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0059'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 1310 & 1315.

Title: Statement of Person Claiming to Have Stood in Relation to Parent (VA Form 21P–524).

OMB Control Number: 2900–0059.

Type of Review: Revision of a currently approved collection.

Abstract: 38 U.S.C 1315 established Dependency Indemnity Compensation to Parents (known as Parents' DIC). Parent's DIC is a monthly benefit payable to the parent(s) of a deceased Veteran. The payable monthly benefit is based on the parent's (parents') annual income. Additional funds are payable to the parent(s) if they are in a patient in a nursing home, blind, so nearly blind or significantly disabled as to need or require the regular aid and attendance of another person.

38 CFR 3.59 defines the term parent as '' . . . a natural mother or father (including the mother of an illegitimate child or the father of an illegitimate child if the usual family relationship existed), mother or father through adoption, or a person who for a period of not less than 1 year stood in the relationship of a parent to a Veteran at any time before his or her entry into active service.''

The information collected will be used by VBA to evaluate a claimant's parental relationship to a deceased Veteran when the claimant is not the Veteran's natural mother or father or adopted mother or father.

This is a revision of a currently approved collection. The burden has decreased due to the number of receivables over the past year with no substantive changes.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 88 FR 144 on July 28, 2023, pages 48965 and 48966.

Affected Public: Individuals or Households.

Estimated Annual Burden: 42.

Estimated Average Burden per Respondent: 2 Hours (120) minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 21.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–21395 Filed 9–28–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0655]

Agency Information Collection Activity: Residency Verification Report—Veterans and Survivors

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 28, 2023.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0655'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0655'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 107.

Title: Residency Verification Report—Veterans and Survivors (FL21–914).

OMB Control Number: 2900–0655.

Type of Review: Revision of a currently approved collection.

Abstract: Form Letter 21–914 is primarily used to gather information which is necessary to verify whether a veteran or beneficiary who is receiving benefits at the full-dollar rate based on U.S. residency continues to meet the residency requirements. Continued eligibility to benefits at the full-dollar rate cannot be determined without complete information about a veteran's or beneficiary's residency.

No substantive changes have been made to this form. However, the burden estimate has decreased due to (1) a decrease in the number of minutes it takes to fill out the form, and (2) the respondent total has also decreased since the previous approval due to the estimated number of receivables averaged over the past year.

Affected Public: Individuals or Households.

Estimated Annual Burden: 75 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 900.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–21522 Filed 9–28–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease of U.S. Department of Veterans Affairs Real Property for the Development of Permanent Supportive Housing at the Greater Los Angeles Healthcare System, West Los Angeles, California Campus

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an enhanced-use lease.

SUMMARY: The purpose of this **Federal Register** notice is to provide the public with notice that the Secretary of the Department of Veterans Affairs (VA) intends to enter an enhanced-use lease (EUL) of certain assets identified herein on the campus of the Greater Los Angeles Healthcare System-West Los Angeles (GLAHS–WLA).

FOR FURTHER INFORMATION CONTACT: C. Brett Simms, Executive Director, Office of Asset Enterprise Management, Office of Management, 810 Vermont Avenue NW, Washington, DC 20420, 202–502–0262. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Pursuant to 38 U.S.C. 8161–8169 and the West Los Angeles Leasing Act of 2016, Public Law 114–226, as amended, the Secretary of VA is authorized to enter into an EUL for a term of up to 99 years on the GLAHS–WLA campus for the provision of supportive housing if the lease is not inconsistent with and will not adversely affect the mission of VA. Consistent with this authority, the Secretary of VA intends to enter into an EUL for the purpose of outleasing MacArthur Field, consisting of approximately 2.81 acres of land on the GLAHS–WLA campus, to develop 75 units of permanent supportive housing for Veterans and their families. The competitively selected EUL lessee/developer, MacArthur B, LP, will finance, design, develop, construct, manage, maintain and operate permanent supportive housing for eligible homeless Veterans or Veterans at risk of homelessness and their families on a priority placement basis. The housing will be developed over the next 2 years consistent with the GLAHS–WLA Master Plan 2022. In addition, the lessee/developer will be required to provide supportive services that guide Veteran residents towards long-term independence and self-sufficiency.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on September 22, 2023, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2023–21406 Filed 9–28–23; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 88 Friday,

No. 188 September 29, 2023

Part II

Department of Energy

10 CFR Parts 429 and 431

Energy Conservation Program for Appliance Standards: Certification Requirements, Labeling Requirements, and Enforcement Provisions for Certain Consumer Products and Commercial Equipment; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[EERE–2023–BT–CE–0001]

RIN 1904–AF48

Energy Conservation Program for Appliance Standards: Certification Requirements, Labeling Requirements, and Enforcement Provisions for Certain Consumer Products and Commercial Equipment

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

ACTION: Notice of proposed rulemaking and announcement of public meeting.

SUMMARY: The U.S. Department of Energy (''DOE'') proposes to establish and amend the certification provisions, labeling requirements, and enforcement provisions for specific types of consumer products and commercial and industrial equipment, as described in sections II and III of this proposed rule. DOE is proposing to establish and make amendments to the certification requirements, labeling requirements, and enforcement provisions for these products and equipment to ensure reporting that is consistent with currently applicable energy conservation standards and test procedures and to ensure DOE has the information necessary to determine the appropriate classification of products for the application of standards. DOE seeks comment from interested parties on all aspects of this proposal.

DATES: DOE will accept comments, data, and information regarding this proposal no later than November 28, 2023. See section V, ''Public Participation,'' for details. DOE will hold a public meeting via webinar on Thursday, October 26, 2023, from 1:00 p.m. to 4:00 p.m. See section V, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov* under docket number EERE–2023–BT–CE–0001. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2023–BT–CE–0001, by any of the following methods:

Email: ApplianceStandardsQuestions@ee.doe.gov. Include the docket number EERE–2023–BT–CE–0001 in the subject line of the message.

Postal Mail: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

Hand Delivery/Courier: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Ave. SW, Washington, DC 20585. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section V of this document.

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

The docket web page can be found at *www.regulations.gov/docket/EERE-2023-BT-CE-0001.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–5904. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2588. Email: *Amelia.Whiting@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in a public meeting (if one is held), contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

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I. Authority and Background

A. Authority

The Energy Policy and Conservation Act, Public Law 94–163, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B of EPCA [2] established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency, while Title III, Part C of EPCA,[3] added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. These products and equipment include central air conditioners and heat pumps (''CAC/HPs''), dishwashers (''DWs''), residential clothes washers (''RCWs''), pool heaters, dehumidifiers, external power supplies (''EPSs''), battery chargers, computer room air conditioners (''CRACs''), direct-expansion dedicated outdoor air systems (''DX–DOASes''), air cooled, three-phase, small commercial air conditioners and heat pumps with a cooling capacity of less than 65,000 Btu/h and air-cooled, three-phase (''three-phase, less than 65,000 Btu/h ACUACs and ACUHPs''), variable refrigerant flow air conditioners and heat pumps with a cooling capacity of less than 65,000 Btu/h (''three-phase, less than 65,000 Btu/h VRF''), commercial water heating equipment (''CWHs''), automatic commercial ice makers (''ACIMs''), walk-in coolers and walk-in freezers (''walk-ins''), commercial and industrial pumps, portable air conditioners (''portable ACs''), compressors, dedicated-purpose pool pump motors (''DPPPMs''), air cleaners, single package vertical units (''SPVUs''), and ceiling fan light kits (''CFLKs''), all of which are subjects of this document. (42 U.S.C. 6292(a)(3), (6–7), (11), and (20); 42 U.S.C. 6295(u), (cc), and (ff); 42 U.S.C. 6311(1)(A–D), (F–G), (K), and (2)(B)(i)).

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291; 42 U.S.C. 6311), test procedures (42 U.S.C. 6293; 42 U.S.C. 6314), labeling provisions (42 U.S.C. 6294; 42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6295; 42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316; 42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products and equipment must use as the basis for: (1) certifying to DOE that their products or equipment comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s); 42 U.S.C. 6316(a); 42 U.S.C. 6316(b); 42 U.S.C. 6296), and (2) making other representations about the efficiency of those consumer products or industrial equipment (42 U.S.C. 6293(c); 42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the products or equipment comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s); 42 U.S.C. 6316(a); 42 U.S.C. 6316(b); 42 U.S.C. 6296).

EPCA authorizes DOE to enforce compliance with the energy and water conservation standards established for covered products and equipment. (42 U.S.C. 6299–6305; 42 U.S.C. 6316(a)–(b)) DOE has promulgated certification and/or enforcement regulations that include reporting requirements for covered products and equipment including CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, SPVUs, and CFLKs. DOE is proposing certification and reporting requirements for DX–DOASes, DPPPMs, and air cleaners. *See* 10 CFR part 429. Additionally, DOE is amending labeling requirements for walk-ins. *See* 10 CFR 431.305. The reporting requirements ensure that DOE has the information it needs to assess whether regulated products and equipment sold in the United States comply with the statutory and regulatory requirements applicable to each covered product and equipment type.

B. Background

DOE's certification regulations are a mechanism that DOE uses to help ensure compliance with its regulations by collecting information about the energy and water use characteristics of covered products and covered equipment distributed in commerce in the United States. Manufacturers of most covered products and covered equipment must submit a certification report for the duration of distribution, specifically (1) before a basic model is distributed in commerce, (2) annually thereafter, and (3) if the basic model is redesigned in a manner that increases the consumption or decreases the efficiency of the basic model such that the certified rating is no longer supported by test data. 10 CFR 429.12. Additionally, manufacturers must report when production of a basic model has ceased and is no longer offered for sale as part of the next annual certification report following such cessation. 10 CFR 429.12(f). DOE requires the manufacturer of any covered product or covered equipment to establish, maintain, and retain the records of certification reports, of the underlying test data for all certification testing, and

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

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

of any other testing conducted to satisfy the requirements of 10 CFR part 429, 10 CFR part 430, and/or 10 CFR part 431 until 2 years after notifying DOE that a model has been discontinued. 10 CFR 429.71. Certification reports provide DOE and consumers with comprehensive, up-to-date efficiency information and support effective enforcement.

To ensure that all covered products and covered equipment distributed in the United States comply with DOE's energy and water conservation standards and reporting requirements, DOE has promulgated certification, compliance, and enforcement regulations in 10 CFR parts 429 and 431. On March 7, 2011, DOE published in the **Federal Register** a final rule regarding certification, compliance, and enforcement for consumer products and commercial and industrial equipment, which revised, consolidated, and streamlined DOE's existing certification, compliance, and enforcement regulations for certain consumer products and commercial and industrial equipment covered under EPCA. *See* 76 FR 12422. Since that time, DOE has completed multiple rulemakings regarding certification, compliance, and enforcement for specific covered products or equipment. *See* 79 FR 25486 (the May 5, 2014 Final Rule specific to certification of commercial and industrial heating, ventilation, and air conditioning (''HVAC''), refrigeration, and water heating equipment) and 87 FR 43952 (the July 22, 2022 Final Rule amending certification provisions for CFLKs, general service incandescent lamps, incandescent reflector lamps, ceiling fans, consumer furnaces and boilers, consumer water heaters, DWs, commercial clothes washers, battery charges, and DPPPMs).

Additionally, if the Secretary has prescribed test procedures under section 6314 for any class of covered equipment, the Secretary shall prescribe a labeling rule applicable to such class of covered equipment. See 42 U.S.C. 6315(a). EPCA, however, also sets out certain criteria that must be met prior to prescribing a given labeling rule. Specifically, to establish these requirements, DOE must determine that: (1) labeling in accordance with section 6315 is technologically and economically feasible with respect to any particular equipment class; (2) significant energy savings will likely result from such labeling; and (3) labeling in accordance with section 6315 is likely to assist consumers in making purchasing decisions. (42 U.S.C. 6315(h))

If these criteria are met, EPCA specifies certain aspects of equipment labeling that DOE must consider in any rulemaking establishing labeling requirements for covered equipment. At a minimum, such labels must include the energy efficiency of the affected equipment, as tested under the prescribed DOE test procedure, and may also require disclosure of the estimated operating costs and energy use. (42 U.S.C. 6315(b)) The labeling provisions shall include requirements the Secretary determines are likely to assist purchasers in making purchasing decisions, such as: requirements and directions for the display of the label; requirements for including on any label, or separately attaching to, or shipping with, the covered equipment, such additional information related to energy efficiency, energy use, and other measures of energy consumption, including instructions for maintenance and repair of the covered equipment, as the Secretary determines is necessary to provide adequate information to purchasers; and requirements that printed matter displayed or distributed with the equipment at the point of sale also include the information required to be placed on the label. (42 U.S.C. 6315(c))

II. Synopsis of the Notice of Proposed Rulemaking

Since the previous final rule amending certification requirements for covered products (July 22, 2022; 87 FR 43952), DOE has proposed or finalized test procedures and/or energy conservation standards for multiple products and equipment. In this rulemaking, DOE is proposing to revise its certification, labeling, and enforcement regulations for certain covered products and equipment to align with these proposed and finalized amendments.

In this notice of proposed rulemaking (''NOPR''), DOE proposes to update the certification reporting requirements as follows:

(1) *CAC/HP.* Update the CAC/HP certification reporting requirements at 10 CFR 429.16 to reflect the current version of the test procedure at appendix M1 to subpart B of 10 CFR part 430 (''appendix M1'') including test condition information. Correct discrepancies in CAC/HP sampling plan to require using Student's t-Distribution Values from appendix A to subpart B of part 429.

(2) *DW.* Align the DW certification reporting requirements with appendix C1 to subpart B of 10 CFR part 430 (''appendix C1''), and with appendix C2 to subpart B of 10 CFR part 430 (''appendix C2''). Manufacturers must use appendix C1 beginning July 17, 2023. If DOE adopts any amended energy conservation standards based on appendix C2, manufacturers must use appendix C2 beginning on the standards' compliance date. Add reporting requirements specific to the energy and water use for DWs with water re-use systems and built-in reservoirs.

(3) *RCWs.* Remove outdated certification reporting requirements for RCWs pertaining to appendix J1 to subpart B of 10 CFR part 430 (''appendix J1''), which has been removed. Update the existing certification reporting requirements pertaining to appendix J2 to subpart B of 10 CFR part 430 (''appendix J2'') for consistency with test procedure terminology. Add a reporting requirement for test cloth lot used by a manufacturer for testing/certifying to align with RCW enforcement provisions outlined in 10 CFR 429.134(c). Add new certification reporting requirements specific to appendix J to subpart B of 10 CFR part 430 (''appendix J''), use of which would be required at such time as compliance is required with any amended energy conservation standards based on appendix J.

(4) *Pool heaters.* Align pool heater certification reporting requirements with the amended energy conservation standards established in a final rule published on May 30, 2023 (88 FR 34624) to require reporting of thermal efficiency for electric pool heaters and establish new reporting requirements specific to electric pool heaters.

(5) *Dehumidifiers.* Remove outdated certification reporting requirements for dehumidifiers pertaining to appendix X to subpart B of 10 CFR part 430 (''appendix X''), use of which is no longer required.

(6) *EPSs.* Align EPS certification reporting requirements with the amended test procedure at appendix Z to subpart B of 10 CFR part 430 (''appendix Z''), use of which is required beginning February 15, 2023. Add reporting requirements to specify the output cord shipped with the EPS (or the manufacturer's recommended output cord specifications). Update the existing EPS certification reporting requirements to align with the energy conservation standards established in the February 10, 2014 final rule (79 FR 7845), and require output voltage, which is needed to verify the applicable product class. Revise sales reporting requirements for EPSs exempt from energy conservation standards to include the years for which the sales number represents.

(7) *Battery chargers.* Align battery charger certification reporting requirements with appendix Y1 to subpart B of 10 CFR part 430 (''appendix Y1''), use of which would be required for any future amended energy conservation standards for battery chargers.

(8) *CRACs.* Align CRACs certification reporting requirements with amended energy conservation standards established in a final rule published in the **Federal Register** on June 2, 2023 (88 FR 36392) and require submission of a supplemental testing instructions file in PDF format. Establish alternative efficiency determination method (''AEDM'') tolerances for CRAC verification tests for NSenCOP.

(9) *DX–DOAS.* Establish DX–DOAS certification reporting requirements for certifying compliance with the energy conservation standards established in the November 1, 2022 final rule (87 FR 65651), compliance with which is required beginning May 1, 2024. Require submission of a supplemental testing instructions file in PDF format.

(10) *Commercial AC/HPs.* Establish certification reporting requirements for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF aligned with the energy conservation standards established in the final rule published on June 2, 2023 (88 FR 36392), compliance with which would be required beginning January 1, 2025. Correct discrepancies in sampling plan for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF to specify that the Student's t-Distribution Values from appendix A to subpart B of part 429 should be used.

(11) *CWHs.* Align CWH certification reporting requirements with amended energy conservation standards proposed in the May 19, 2022 NOPR (87 FR 30610). Add reporting requirements specific to commercial electric instantaneous water heaters. Additionally, add rated input reporting requirement for commercial electric storage water heaters.

(12) *ACIMs.* Align existing ACIM certification reporting requirements with revised ''energy use'' and ''condenser water use'' definitions and terminology adopted in the amended test procedure at 10 CFR 431.134, use of which is required beginning October 27, 2023. Correct ACIM sampling requirements to remove discrepancy and require using the Student's t-Distribution Values for a 95 percent one-tailed confidence interval.

(13) *WICFs.* For walk-in refrigeration systems, add requirement to report whether each refrigeration system meets the definition of a carbon dioxide (''CO2'') unit cooler, detachable single-packaged dedicated system, or an attached split system, consistent with amendments to 10 CFR 431.302. Add requirements for submission of supplementary testing information if necessary to run a valid test and provide an option to report any compressor break-in duration used to obtain certified rating. Additionally, expand the certification reporting requirements for walk-in cooler and freezers with anti-sweat heater (''ASH'') doors. Revise labeling requirements for walk-in panels and walk-in refrigeration systems at 10 CFR 431.305.

(14) *Commercial and Industrial Pumps.* Require certification reporting of commercial and industrial pump efficiency at best efficiency point (''BEP''), constant load pump energy rating, and variable load pump energy rating.

(15) *Portable ACs.* Clarify existing certification reporting requirements for portable ACs and align them with instructions specified in the test procedure at appendix CC to subpart B of 10 CFR part 430 (''appendix CC'') and 10 CFR 429.62(a)(5).

(16) *Compressors.* Establish an annual filing date of September 1 for compressors at 10 CFR 429.12(d).

(17) *DPPPMs.* Add certification reporting requirements for DPPPMs when certifying compliance with the energy conservation standards proposed in the June 21, 2022 NOPR (87 FR 37122), and establish an annual filing date of September 1 at 10 CFR 429.12(d).

(18) *Air cleaners.* Add certification reporting requirements for air cleaners when certifying compliance with the energy conservation standards adopted in the April 11, 2023 direct final rule, compliance with which will be required beginning December 31, 2023, and establish an annual filing date of December 1 at 10 CFR 429.12(d).

(19) *SPVAC/HPs.* Align SPVAC/HPs certification reporting requirements with amended energy conservation standards proposed in the December 8, 2022 ECS NOPR (87 FR 75388) and add content requirements for supplemental testing instructions file in PDF format.

(20) *CFLKs.* Clarify existing CFLK reporting requirements at 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B).

DOE's current and proposed reporting requirements, as well as the reason for the proposed changes, are summarized in Table II.1.

TABLE II.1—SUMMARY OF PROPOSED CHANGES TO CERTIFICATION REPORTING AND LABELING REQUIREMENTS RELATIVE TO CURRENT CERTIFICATION REPORTING AND LABELING REQUIREMENTS

Current DOE certification reporting requirements	Proposed certification reporting requirements	Attribution
For CAC/HPs, no reporting requirement to indicate whether variable speed coil-only rating is based on non-communicating or communicating control.	Add reporting requirement to § 429.16(e)(2)(vi) to specify whether variable speed coil-only rating is based on non-communicating or communicating control.	Required to determine applicable test conditions specified in appendix M1 test procedure.
For CAC/HPs, no reporting requirement to indicate whether system varies blower speeds with outdoor air conditions.	Add reporting requirement to § 429.16(e)(4)(iv) to specify whether system varies blower speeds with outdoor air conditions.	Required to determine applicable test conditions specified in appendix M1 test procedure.
For CAC/HPs, current sampling requirements state to use Student's t-Distribution Values from ''Appendix D'', whereas appendix A to subpart B of part 429 contains the applicable Student's t-Distribution Values.	Correct § 429.16(b)(3)(i)(B), (ii)(B), and (iii)(A)(2) to specify that the Student's t-Distribution Values in appendix A to subpart B of part 429 should be used.	Removes discrepancy from sampling provisions, improves clarity.
For DWs, reporting requirements in § 429.19(b)(2) and (3) and list of materials incorporated by reference in § 429.4 specify ANSI/AHAM DW–1–2010.	Remove referenced standard in § 429.19(b)(2) and from the list of materials incorporated by reference in § 429.4.	Ensures consistency between reporting requirements and DW test procedures.
For DWs, reporting requirements do not include cycle selected for energy test.	Add reporting requirements for cycle selected for energy test at heavy, medium, and light soil loads, whether the cycles are soil-sensing, and the options selected for the energy test at these soil loads (when testing in accordance with appendix C2) to § 429.19(b)(3)(iv).	Required to ensure that information reported to DOE is consistent with the tested cycle requirements specified in appendix C2.

TABLE II.1—SUMMARY OF PROPOSED CHANGES TO CERTIFICATION REPORTING AND LABELING REQUIREMENTS RELATIVE TO CURRENT CERTIFICATION REPORTING AND LABELING REQUIREMENTS—Continued

Current DOE certification reporting requirements	Proposed certification reporting requirements	Attribution
For DWs, reporting requirements do not include cleaning index.	Add reporting requirement for average cleaning index of sensor heavy response, sensor medium response, and sensor light response test cycles (when testing in accordance with appendix C2) to § 429.19(b)(3)(v).	Required to ensure that the reported test cycle is a valid test cycle that meets the specified cleaning index threshold.
For DWs, reporting requirements do not reflect water re-use system DWs.	Add reporting requirements specific to water re-use system DWs to § 429.19(b)(3)(vii), including energy use and water use associated with drain out and clean out events.	Required to account for extra energy use and water use associated with water re-use systems.
For DWs, reporting requirements do not reflect information needed for DWs with built-in reservoirs.	Add reporting requirements specific to DWs with built-in reservoirs to § 429.19(b)(3)(viii), including reservoir capacity, prewash and main wash fill water volume, and total water consumption.	Required to account for water consumption of DWs with built-in reservoirs, and therefore determine compliance with the current energy conservation standards.
For DWs, no rounding requirements are specified in § 429.19.	Add rounding requirements to § 429.19(c)	Improves representativeness, repeatability, and reproducibility.
For RCWs, reporting requirements include outdated requirements associated with appendix J1.	Remove obsolete appendix J1 RCW reporting requirements from § 429.20(b)(2)(i).	Appendix J1 has been removed from 10 CFR part 430.
For RCWs, ''capacity'' is required to be reported	Update existing requirement to specify ''clothes container capacity'' rather than ''capacity'' at § 429.20(b)(2)(ii).	Consistency in terminology between existing test procedure and reporting requirements.
For RCWs, reporting requirements do not include test cloth lot used by manufacturer for testing and certifying.	Add reporting requirement to § 429.20(b)(3) for test cloth lot number used during testing to determine other reported values.	Required to ensure that correct remaining moisture content calculation is used for enforcement testing per RCW enforcement provisions specified in 10 CFR 429.134(c).
For RCWs, no reporting requirements for RCWs tested in accordance with appendix J test procedure.	Add reporting requirements for energy efficiency ratio, water efficiency ratio, type of control system, remaining moisture content, clothes container capacity, and type of loading when certifying in accordance with appendix J to § 429.20(b)(2)(i).	Required to ensure compliance with proposed amendments to energy conservation standards.
For pool heaters, reporting requirement only includes thermal efficiency for gas-fired pool heaters.	Add reporting requirement for integrated thermal efficiency for both gas-fired and electric pool heaters to § 429.24(b)(2)(i).	Required to determine compliance with the amended energy conservation standards.
For electric pool heaters, no reporting requirement for active electrical power.	Add reporting requirement for active electrical power for electric pool heaters to § 429.24(b)(2)(ii).	Required to determine compliance with the amended energy conservation standards.
For dehumidifiers, reporting requirements include outdated requirements associated with appendix X.	Remove obsolete appendix X dehumidifier reporting requirements from § 429.36(b)(2)(i).	Appendix X test procedure is no longer required for use.
For EPSs, no reporting requirement for output cord specifications.	Add reporting requirement for output cord specifications (or for EPSs shipped without an output cord, specifications for the manufacturer's recommended output cord) to § 429.37(b)(i)–(iv).	Required to conduct amended appendix Z test procedure.
For EPSs, no reporting requirements for output voltage.	Add reporting requirements for output voltage to § 429.37(i) through (iv).	Required to determine compliance with currently applicable energy conservation standards.
For EPSs exempt from the energy conservation standards, only the number of units of exempt external power supplies sold during the most recent 12-calendar-month period ending on July 31, importer or manufacturer name and address, and brand name must be reported.	Add requirement that the year for which the sales number being reported represents to § 429.37(b)(3) and (c).	Improved clarity, consistency with other similar reporting requirements.
For battery chargers, reporting requirements only reflect metrics associated with battery chargers tested in accordance with appendix Y.	Add reporting requirements to § 429.39(b)(5) and (6) for battery chargers tested in accordance with newly adopted appendix Y1, multi-metric approach.	Required to determine compliance with any future amended energy conservation standards for battery chargers.
For CRACs, reporting requirements do not include provisions for certifying compliance with net sensible coefficient of performance standards.	Add reporting requirements specific to net sensible coefficient of performance to § 429.43(b)(2)(ix)(B).	Required to determine compliance with the amended energy conservation standards.
For CRACs, reporting requirements do not include provisions for submitting a supplemental testing instructions file in PDF form.	Add supplemental testing instructions file requirements in PDF form for certification reports to § 429.43(b)(4)(viii).	Required to ensure that testing conditions are met in the case of enforcement testing.
For CRACs, reporting requirements do not include indoor and outdoor unit individual model numbers.	Add reporting requirements for indoor and outdoor unit individual model numbers to § 429.43(b)(6)(i).	Required to determine specific individual models distributed in commerce under each basic model.
For CRACs, current AEDM tolerances do not specify tolerances for NSenCOP verification tests.	Add tolerance of 5 percent to table 2 to § 429.70(c)(5)(vi)(B) for CRAC verification tests for NSenCOP.	Required for consistency with allowable AEDMs for other product types and metrics.
For DX–DOASes, reporting requirements do not include provisions for certifying compliance with integrated seasonal moisture removal efficiency 2 and integrated seasonal coefficient of performance 2 standards.	Add reporting requirements for integrated seasonal moisture removal efficiency 2 and integrated seasonal coefficient of performance 2, as well as rated moisture removal capacity, rated supply airflow rate, and configuration of the basic model to § 429.43(b)(2)(xi)(A) through (C).	Required to determine compliance with the energy conservation standards.
For DX–DOASes, reporting requirements do not include reporting requirements for systems with ventilation energy recovery systems (''VERS'').	Add reporting requirements for systems with VERS to § 429.43(b)(3)(iii).	Required to fully ensure that enforcement provisions specified at § 429.134(s)for DX–DOASes are met in the case of enforcement testing.
For DX–DOASes, reporting requirements do not include provisions for submitting a supplemental testing instructions file in PDF form.	Add supplemental testing instructions file requirements in PDF form for certification reports to § 429.43(b)(4)(x).	Required to ensure that testing conditions are met in the case of enforcement testing.
For DX–DOASes, reporting requirements do not include indoor and outdoor unit individual model numbers.	Add reporting requirements for indoor and outdoor unit individual model numbers to § 429.43(b)(6)(ii).	Required to determine specific individual models distributed in commerce under each basic model.

TABLE II.1—SUMMARY OF PROPOSED CHANGES TO CERTIFICATION REPORTING AND LABELING REQUIREMENTS RELATIVE TO CURRENT CERTIFICATION REPORTING AND LABELING REQUIREMENTS—Continued

Current DOE certification reporting requirements	Proposed certification reporting requirements	Attribution
For three-phase less than 65,000 Btu/h ACUACs and ACUHPs and three-phase less than 65,000 Btu/h VRF, no reporting requirements for seasonal energy efficiency ratio 2 and heating seasonal performance factor 2.	Add reporting requirements for seasonal energy efficiency ratio 2 and heating seasonal performance factor 2 to § 429.67(f)(2).	Required to determine compliance with energy conservation standards.
For three-phase less than 65,000 Btu/h ACUACs and ACUHPs and three-phase less than 65,000 Btu/h VRF, reporting requirements do not include indoor and outdoor unit individual model numbers.	Add reporting requirements for indoor and outdoor unit individual model numbers to § 429.67(f)(4)).	Required to determine specific individual models distributed in commerce under each basic model.
For three-phase less than 65,000 Btu/h ACUACs and ACUHPs and three-phase less than 65,000 Btu/h VRF, reporting requirements do not include provisions for submitting a supplemental testing instructions file in pdf form for outdoor units with no match.	Add supplemental testing instructions file requirements in PDF form for certification reports for outdoor units with no match to § 429.67(f)(3).	Required to ensure that testing conditions are met in the case of enforcement testing.
For three-phase less than 65,000 Btu/h ACUACs three-phase less than 65,000 Btu/h VRF, current sampling requirements state to use the Student's t-Distribution Values from ''appendix D'', whereas appendix A to subpart B of part 429 contains the applicable Student's t-Distribution Values.	Correct § 429.67(c)(2)(ii)(A)(2) to specify that the Student's t-Distribution Values in appendix A to subpart B of part 429 should be used.	Removes discrepancy from sampling provisions, improves clarity.
For CWHs, no reporting requirements for electric instantaneous water heaters.	Add reporting requirements for electric instantaneous water heaters to § 429.44(c)(2)(vi)–(vii).	Required to determine compliance with proposed energy conservation standards.
For CWHs, no rated input reporting requirement for electric storage water heaters.	Add rated input reporting requirement for electric storage water heaters to § 429.44(c)(2)(i).	Required to determine that models exceed the definitional requirement for electric storage water heaters.
For ACIMs, reporting requirements include ''maximum energy use'' and ''maximum condenser water use.''.	Update reporting requirement terminology to specify ''energy use'' and ''condenser water use'' in § 429.45(b)(2).	Improved clarity and consistency with definitions.
For ACIMs, no rounding requirements for represented values specified in 10 CFR 429.45.	Add rounding requirements in § 429.45(b)(3) that specify represented values determined in 10 CFR 429.45 must be rounded consistent with the test procedure rounding instructions upon the compliance date of any amended standards.	Improves representativeness, repeatability, and reproducibility.
For ACIMs, sampling provisions require use of the Student's t-Distribution Values for a 95 percent two-tailed confidence interval from appendix A to subpart B of part 429, whereas appendix A to subpart B of part 429 contains one-tailed Student's t-Distribution Values.	Revise sampling provisions in 10 CFR 429.45(a)(2) to correct this discrepancy and clarify that the Student's t-Distribution Values for a 95 percent one-tailed confidence interval from appendix A to subpart B of part 429.	Removes discrepancy from sampling provisions, improves clarity.
For walk-in refrigeration systems, no reporting requirement for whether the basic model meets the definition of a CO_2 unit cooler.	Add reporting requirement for whether the basic model meets the definition of a CO_2 unit cooler to § 429.53(b)(2)(iii)(G).	Required to ensure test conditions specified in the test procedure are met.
For walk-in refrigeration systems, the configuration reporting requirement does not include ''detachable single-packaged dedicated system'' or ''attached split system''.	Modify current configuration reporting requirement in § 429.53(b)(2)(iii)(C) to include ''detachable single-packaged dedicated system'' and ''attached split system''.	Required to ensure test conditions specified in the test procedure are met.
For walk-in dedicated condensing systems, no reporting requirement for head pressure controls.	Add reporting requirement in § 429.53(b)(3)(ii) for whether the basic model has head pressure controls.	Required to ensure test conditions specified in the test procedure are met.
No supplemental testing instructions for walk-in refrigeration systems.	Add requirement in § 429.53(b)(4) for submission of supplement test information in PDF format, if necessary to run a valid test, at the time of certification.	Required to ensure test conditions specified in the test procedure are met.
For walk-in refrigeration systems, no reporting requirement for compressor break-in duration used to obtain certified rating.	Add optional reporting requirement to § 429.53(b)(3)(ii) for compressor break-in duration used to obtain certified rating, if applicable.	Improves representativeness, repeatability, and reproducibility.
For walk-in doors with anti-sweat heater controls, no reporting requirements for conditions at which the controls activate the ASH wire.	Add reporting requirements to § 429.53(b)(2)(i)(H) for conditions (*i.e.,* temperature, humidity, etc.) at which the controls activate the ASH wire.	Required to ensure applicable enforcement provisions are met in the case of enforcement testing.
For walk-in doors, no reporting requirement for thermal conduction load through the door.	Add reporting requirement for thermal conduction load through the door to § 429.53(b)(3)(i)(B).	Required to calculate daily energy consumption.
For walk-in panels, date of manufacturer is not required on a panel's nameplate or label.	Require panel manufacture date be added to the nameplate or label in § 431.305(a).	Aids enforcement evaluation, as necessary.
For walk-in refrigeration systems, unit coolers designed for use with CO_2 as a refrigerant are not required to indicate that they are designed for use with CO_2 on the nameplate.	Require the statement ''Only CO_2 is approved as a refrigerant for this system'' to be included on the nameplate for unit coolers designed for use with CO_2 as a refrigerant.	Required to ensure test conditions specified in the test procedure are met.
For commercial and industrial pumps, reporting requirements are optional for pump efficiency at BEP, constant load pump energy rating, and variable load pump energy rating.	Modify existing provisions in § 429.59(b)(2) to require reporting of pump efficiency at BEP, constant load pump energy rating, and variable load pump energy rating.	Standardize public information reported for pumps.
For portable ACs, reporting requirement for duct configuration lists ''ability to operate in both configurations'' as an option.	Remove ''ability to operate in both configurations'' as an option in § 429.62(b)(2) and add reporting requirement for whether model is distributed in commerce with multiple duct configuration options.	Improved clarity, consistency with instructions in appendix CC and 10 CFR 429.62(a)(5).
For portable ACs, no reporting requirement for full-load seasonally adjusted cooling capacity for variable-speed models.	Add reporting requirements for whether the basic model is variable-speed, and if yes; the full-load seasonally adjusted cooling capacity to § 429.62(b)(3).	Required to determine compliance with the energy conservation standards.

TABLE II.1—SUMMARY OF PROPOSED CHANGES TO CERTIFICATION REPORTING AND LABELING REQUIREMENTS RELATIVE TO CURRENT CERTIFICATION REPORTING AND LABELING REQUIREMENTS—Continued

Current DOE certification reporting requirements	Proposed certification reporting requirements	Attribution
For compressors, reporting requirements are included in 10 CFR 429.63, but no annual filing date is specified in 10 CFR 429.12.	Establish an annual filing date of September 1 at 10 CFR 429.12(d), by which manufacturers would be required to submit required reporting information to DOE.	Required to ensure certification information is current on an annual basis, consistent with the requirements for other covered products and equipment.
For DPPPMs, no reporting requirements outlined in 10 CFR 429.65.	Add reporting requirements for DPPPMs to § 429.65(e)	Required to verify compliance with proposed energy conservation standards.
For DPPPMs, no rounding requirements outlined in 10 CFR 429.65.	Add rounding requirements for DPPPMs to § 429.65(f)	Improves representativeness, repeatability, and reproducibility.
For DPPPMs, no annual filing date specified in 10 CFR 429.12.	Establish an annual filing date of September 1 at 10 CFR 429.12(d), by which manufacturers would be required to submit required reporting information to DOE.	Required to ensure certification information is current on an annual basis, consistent with the requirements for other covered products and equipment.
For air cleaners, no reporting requirements outlined in 10 CFR 429.68.	Add reporting requirements for air cleaners to § 429.68(b)	Required to verify compliance with recently adopted energy conservation standards.
For air cleaners, no annual filing date specified in 10 CFR 429.12.	Establish an annual filing date of December 1 at 10 CFR 429.12(d), by which manufacturers would be required to submit required reporting information to DOE.	Required to ensure certification information is current on an annual basis, consistent with the requirements for other covered products and equipment.
For SPVUs, reporting requirements do not include provisions for certifying compliance with integrated energy efficiency ratio standards.	Add reporting requirements for certifying compliance with integrated energy efficiency ratio standards to 10 CFR 429.43(b)(2)(v)(B) and (vi)(B).	Required to determine compliance with the energy conservation standards.
For SPVUs with cooling capacities less than 65,000 Btu/h, reporting requirements do not include whether the unit is weatherized or non-weatherized, and if non-weatherized, the airflow rate of outdoor ventilation air which is drawn in and conditioned.	Add reporting requirements to 10 CFR 429.43(b)(2)(v)(B) and (vi)(B) for whether the unit is weatherized or non-weatherized, and if non-weatherized, the airflow rate of outdoor ventilation air which is drawn in and conditioned as determined in accordance with 10 CFR 429.134(x)(3), while the equipment is operating with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment.	Required to determine whether non-weatherized SPVUs with cooling capacities less than 65,000 Btu/h have met the definitional requirements for airflow rate of outdoor ventilation air which is drawn in and conditioned.
For SPVUs, existing supplemental testing instruction requirements do not reflect updated integrated energy efficiency ratio test procedure.	Add supplemental testing instruction file content requirements for when certifying compliance with an integrated energy efficiency ratio standard to 10 CFR 429.43(b)(4)(vi)(B) and (vii)(B).	Required to ensure test conditions specified in the test procedure are met.
For CFLKs, reporting requirements inadvertently omit CFLKs distributed with consumer-replaceable SSL.	Amend reporting requirements in 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B) to include CFLKs distributed with consumer-replaceable SSL.	Required to determine compliance with the energy conservation standards.

The proposed regulatory amendments summarized in this section, and that are described in greater detail in section III, pertain to certification reporting requirements only. DOE is not proposing amendments to the test procedures or energy conservation standards for CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX–DOASes, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, WICFs, commercial and industrial pumps, portable ACs, compressors, DPPPMs, air cleaners, SPVUs, and CFLKs.

III. Discussion

Certification of compliance to DOE is a mechanism that helps manufacturers understand their regulatory obligations for distributing basic models of covered products and equipment that are subject to energy conservation standards. Certification also helps consumers obtain information about products' energy performance. Certification reports include characteristics of covered products or equipment used to determine which standard applies to a given basic model, and they also help DOE identify models and/or regulated entities that may not comply with the applicable regulations.

For the covered products and equipment addressed in this NOPR, DOE has identified areas in which the certification reporting requirements in 10 CFR part 429 are not consistent with the information required to verify whether the information provided is consistent with the certifier's statement of compliance with current energy conservation standards. DOE is proposing amendments to the certification and reporting provisions for these products and equipment to ensure reporting that is consistent with currently applicable energy conservation standards and to ensure that DOE has the information necessary to determine the appropriate classification of products for the application of standards. In addition to the specific proposals discussed in the following sections, DOE is also proposing minor amendments to ensure consistency among terms used throughout DOE's certification and reporting provisions. Additionally, DOE is proposing labeling requirements for certain covered equipment.

A. Central Air Conditioners and Heat Pumps

DOE is proposing to amend the certification reporting requirements for CAC/HPs. A central air conditioner or central air conditioning heat pump means a product, other than a packaged terminal air conditioner or packaged terminal heat pump, which is powered by single phase electric current, air cooled, rated below 65,000 Btu/h, not contained within the same cabinet as a furnace, the rated capacity of which is above 225,000 Btu/h, and is a heat pump or a cooling unit only. A central air conditioner or central air conditioning heat pump may consist of: a single-package unit; an outdoor unit and one or more indoor units; an indoor unit only; or an outdoor unit with no match. In the case of an indoor unit only or an outdoor unit with no match, the unit must be tested and rated as a system (combination of both an indoor and an outdoor unit). 10 CFR 430.2.

On October 25, 2022, DOE published a final rule (''October 2022 CAC/HP Final Rule'') in which DOE amended the test procedure provisions for CAC/HPs. 87 FR 64550. Consistent with that final rule, DOE is proposing amendments to the reporting requirements.

1. Reporting

Under the existing requirements in 10 CFR 429.16, manufacturers of CAC/HPs must report a variety of values and information, including seasonal energy efficiency ratio 2 (''SEER2'') in Btu/W-h, average off mode power consumption, cooling capacity in Btu/h, and heating seasonal performance factor 2 (''HSPF2'') in Btu/W-h. 10 CFR 429.16(e)(2) For a complete list of existing certification reporting requirements, *see* 10 CFR 429.16(e). These requirements provide for certifying compliance with the current standards applicable to CAC/HP equipment manufactured on or after January 1, 2023. 10 CFR 430.32(c). DOE is proposing to update these requirements and align the reporting requirements with the appendix M1 test procedure and proposing general certification requirements for CAC/HPs. DOE discusses these proposed updates in the following sections.

a. Variable Speed Coil-Only Rating Based on Non-Communicating or Communicating Control

In the October 2022 CAC/HP Final Rule, DOE defined a ''communicating variable-speed coil-only central air conditioner or heat pump'' as a variable-speed compressor system having a coil-only indoor unit that is installed with a control system that (a) communicates the difference in space temperature and space setpoint temperature (not a setpoint value inferred from on/off thermostat signals) to the control that sets compressor speed; (b) provides a signal to the indoor fan to set fan speed appropriate for compressor staging and air volume rate; and (c) has installation instructions indicating that the required control system meeting both (a) and (b) must be installed. 87 FR 64550, 64560.

DOE defined a ''variable-speed non-communicating coil-only central air conditioner or heat pump'' as a variable-speed compressor system having a coil-only indoor unit that does not meet the definition of variable-speed communicating coil-only central air conditioner or heat pump. *Id.*

In the October 2022 CAC/HP Final Rule, DOE elaborated that variable-speed coil-only systems that meet the ''communicating'' definition should be tested like any other variable-speed system, except that the heating full-load air volume rate should be equal to the cooling full-load air volume rate and the intermediate and minimum cooling and heating air volume rates should all be higher than (1) the rate specified by the installation instructions included with the unit by the manufacturer, and (2) 75 percent of the full-load cooling air volume rate. *Id.*

Because this aspect of the basic model's operating characteristics determines the way it must be tested, manufacturers need to certify whether a variable speed coil-only rating is based on non-communicating or communicating control. Therefore, DOE is proposing to include this requirement in the certification template.

DOE seeks comment on its proposal to require reporting of whether a variable speed coil-only rating is based on non-communicating or communicating control.

b. Air Volume Rate Changing With Outdoor Conditions

In the October 2022 CAC/HP Final Rule, DOE explained that requirements for setting air volume rate in section 3.1.4 of appendix M1 may conflict with instructions to use air volume rates that represent a ''normal installation'' in section 3.2, particularly for modern blower-coil systems with multiple-speed or variable-speed indoor fans and control systems, which may change air volume rate in response to operating conditions such as outdoor air temperature. 87 FR 64550, 64569. To address this issue, in the October 2022 CAC/HP Final Rule, DOE explicitly stated in step 7 of sections 3.1.4.1.1.a, 3.1.4.2.a, and 3.1.4.3.a of appendix M1 that, for blower-coil systems in which the indoor blower capacity modulation correlates with outdoor dry bulb temperature or sensible-to-total cooling capacity ratio, use an air volume rate that represents a normal operation. *Id.* Also, DOE indicated that to ensure consistency of testing, it may be necessary for manufacturers to certify whether the system varies blower speeds with outdoor air conditions. *Id.*

For these reasons, DOE is proposing that manufacturers include in their certification whether the system varies blower speeds with outdoor air conditions.

DOE seeks comment on its proposal to require reporting of whether a CAC/HP system varies blower speeds with outdoor air conditions.

c. Sampling Corrections

Currently, DOE's sampling provisions for CAC/HPs state that any represented value of power consumption or other measure of consumption of a basic model for which consumers would favor lower values shall be greater than or equal to the higher of the mean of the sample, or the upper 90 percent confidence limit of the true mean (''UCL'') divided by 1.05. 10 CFR 429.16(b)(3)(i). Additionally, the sampling provisions state that any represented value of the energy efficiency, cooling capacity, heating capacity or other measure of energy consumption for which consumers would favor higher values shall be less than or equal to the lower of the mean of the sample, or the lower 90 percent confidence limit of the true mean (''LCL'') divided by 0.95. 10 CFR 429.16(b)(3)(ii)–(iii). The sampling provisions also state that the UCL and LCL should be calculated using the Student's t-Distribution Values for a 90 percent one-tailed confidence interval with n-1 degrees of freedom from appendix D to subpart B of part 429 (''appendix D''), where ''n'' is the number of samples. 10 CFR 429.16(b)(3)(i)–(iii). However, the Appendix containing Student's t-Distribution Values has moved to appendix A to subpart B of part 429 (''Appendix A'') and is no longer located at appendix D.[4].''). To correct this discrepancy, DOE is proposing to revise 10 CFR 429.16(b)(3)(i)-(iii) to specify that the UCL and LCL should be calculated using the Student's t-Distribution Values for a 90 percent one-tailed confidence interval outlined in appendix A.

DOE seeks comment on its proposal to correct the sampling provisions for CAC/HPs to reference appendix A instead of appendix D.

2. Reporting Costs and Impacts

As described in the previous section, DOE proposes in this NOPR to align CAC/HP certification reporting requirements with the current test procedure for CAC/HP in appendix M1, which was most recently amended by the October 2022 CAC/HP Final Rule. The proposed certification requirements in this proposed rule specifically address new provisions in this amended version of the appendix M1 test procedure, use of which was required beginning on April 24, 2023.

DOE has tentatively determined that these proposed amendments to the certification requirements would not impose additional costs for manufacturers because manufacturers of CAC/HPs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what CAC/HP

[4] Appendix D now contains the sampling plan for enforcement testing of Uninterruptible Power Supplies

manufacturers are currently doing today.

DOE requests comment on the certification reporting costs of the amendments proposed for CAC/HPs.

B. Dishwashers

DOE is proposing to amend the certification reporting requirements for DWs, which are cabinet-like appliances which, with the aid of water and detergent, wash, rinse, and dry (when a drying process is included) dishware, glassware, eating utensils, and most cooking utensils by chemical, mechanical and/or electrical means and discharge to the plumbing drainage system. 10 CFR 430.2. In the DWs test procedure final rule published on January 18, 2023 (''January 2023 DW Final Rule''), DOE amended the existing DWs test procedure at appendix C1 and established a new test procedure at appendix C2, which would be required at the time compliance is required with any amended energy and water conservation standards. 88 FR 3234. Consistent with that final rule, DOE is proposing amendments to the reporting requirements.

1. Reporting

Under the existing requirements in 10 CFR 429.19, manufacturers must report the following public product-specific information: the estimated annual energy use in kilowatt hours (''kWh'') per year (''kWh/yr''), the water consumption in gallons per cycle, and the capacity in number of place settings as specified in ANSI/AHAM DW–1–2010.[5] 10 CFR 429.19(b)(2). Manufacturers must additionally report the following product-specific information: the presence of a soil sensor (and if present, the number of cycles required to reach calibration); water inlet temperature used for testing in degrees Fahrenheit (''°F''); cycle selected for the energy test and whether that cycle is soil-sensing; the options selected for the energy test; the presence of a built-in water softening system (and if present, the energy use in kWh and the water use in gallons required for each regeneration of the water softening system, the number of regeneration cycles per year, and data and calculations used to derive these values); and an indication of whether Cascade Complete powder was used as the detergent formulation in lieu of Cascade with the Grease Fighting Power of Dawn powder. 10 CFR 429.19(b)(3). These requirements are applicable for any DW distributed in the United States on or after May 30, 2013. Additionally, in a test procedure final rule published on July 27, 2023 (''July 2023 DW Final Rule''), DOE updated the detergent formulation reporting requirement at 10 CFR 429.19(b)(3)(vi) as follows: indication of whether Cascade Complete Powder or Cascade with the Grease Fighting Power of Dawn was used as the detergent formulation. 88 FR 48351. For dishwashers other than water re-use dishwashers, the July 2023 DW Final Rule additionally specified that before July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification in conjunction with the detergent dosing methods specified in either section 2.5.2.1.1 or section 2.5.2.1.2 of appendix C1 as amended in the July 2023 DW Final Rule and Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1 as amended in the July 2023 DW Final Rule. Further, for dishwashers other than water re-use dishwashers, the July 2023 DW Final Rule specified that beginning July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification of newly certified basic models only in conjunction with the detergent dosing method specified in section 2.5.2.1.2 of appendix C1 as amended in the July 2023 DW Final Rule and Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1 as amended in the July 2023 DW Final Rule. The July 2023 DW Final Rule additionally specified that manufacturers may maintain existing basic model certifications made prior to July 17, 2023, consistent with the provisions of § 429.19(b)(3)(vi)(A) and (B). *Id.*

DOE is proposing to update the dishwasher certification reporting requirements and align the reporting requirements with the amended test procedure at appendix C1 and the new test procedure at appendix C2. Use of appendix C2 would be required when determining compliance with any future amended energy and water conservation standards. Appendix C2 to subpart B of part 430. Accordingly, the certification reporting requirements that are specific to appendix C2 would be required only at such time as use of appendix C2 is required to demonstrate compliance with any future amended energy and water conservation standards. DOE discusses the proposed updates in the following sections.

a. Update to the AHAM Industry Standard

The current reporting requirements at 10 CFR 429.19(b)(2) reference the industry standard, ANSI/AHAM DW–1–2010 to the capacity of a dishwasher in number of place settings. DOE is proposing to exclude this reference in the dishwasher reporting requirements at 10 CFR 429.19 because this industry standard is now obsolete. Additionally, the reference to the definition of place settings only includes the items in the test load that comprise a single place setting; it does not define the capacity of a dishwasher itself, which is the metric that needs to be reported for dishwashers at 10 CFR 429.19(b)(2). Relatedly, DOE also proposes to remove ANSI/AHAM DW–1–2010 from its list of materials incorporated by reference at 10 CFR 429.4 because this standard would no longer be referenced anywhere in 10 CFR part 429 after the proposed removal of this reference from 10 CFR 429.19.

DOE requests comment on its proposal to remove ANSI/AHAM DW–1–2010 from the referenced industry standard in 10 CFR 429.19(b)(2).

b. Cycle Selected for Energy Test

In the January 2023 DW Final Rule, DOE established a new appendix C2 that specifies, in part, a minimum cleaning index threshold as a condition for a valid test cycle. 88 FR 3234. If the normal cycle at any soil level (*i.e.,* heavy, medium, or light) does not meet the specified cleaning index threshold, the unit is tested at the most energy-intensive cycle that can achieve a cleaning index threshold of 70. 88 FR 3234, 3266. To ensure that the certification template is consistent with the tested cycle requirements specified in appendix C2, DOE proposes to include the following additional confidential reporting requirement at 10 CFR 429.19(b)(3)(iii): the cycle selected for the energy test at the heavy, medium, and light soil loads and whether these cycles are soil-sensing. Further, DOE proposes to include the following additional confidential reporting requirement at 10 CFR 429.19(b)(3)(iv): the options selected for the energy test at the heavy, medium, and light soil loads. These reporting requirements would be required only at such time as use of appendix C2 is required to demonstrate compliance with any future amended energy and water conservation standards.

DOE requests comment on the proposed requirement to confidentially

[5] American National Standards Institute/Association of Home Appliance Manufacturers DW–1–2010: Household Electric Dishwasher.

report the cycle selected for the energy test at the heavy, medium, and light soil loads and whether these cycles are soil-sensing as well as the options selected for the energy test at the heavy, medium, and light soil loads when testing according to appendix C2.

c. Cleaning Index

As noted previously, the January 2023 DW Final Rule established a new appendix C2 that specifies a minimum cleaning index threshold as a condition for a valid test cycle. 88 FR 3234. Specifically, the January 2023 DW Final Rule states that each tested cycle on each individual unit is required to achieve the applicable cleaning index threshold to constitute a valid test cycle. 88 FR 3234, 3265–3266. To ensure that the reported test cycle is a valid test cycle that meets the specified applicable cleaning index threshold, DOE is proposing a confidential reporting requirement for the cleaning index of the sensor heavy response, sensor medium response, and sensor light response test cycles. DOE additionally proposes that the reported cleaning index for each basic model must be the average cleaning index of the individual test units at each soil level. This reporting requirement would be required only at such time as use of appendix C2 is required to demonstrate compliance with any future amended energy and water conservation standards.

DOE requests comment on the proposed requirement to confidentially report the average cleaning index of the sensor heavy response, sensor medium response, and sensor light response test cycles.

d. Water Re-Use System Dishwashers

On November 1, 2013, DOE published a Decision and Order granting Whirlpool a test procedure waiver (''Whirlpool waiver'') for testing specified basic models equipped with a ''water use system,'' in which water from the final rinse cycle is stored for use in the subsequent cycle, with periodic draining (''drain out'') and cleaning (''clean out'') events. 78 FR 65629, 65629–65630. (Case No. DW–11).[6]

In the January 2023 DW Final Rule, DOE amended appendix C1 to include the requirements from the Whirlpool waiver for testing water re-use system DWs via reference to the industry standard, AHAM DW–1–2020, with some modifications to the equations in sections 5.6.1.3, 5.6.1.4, 5.6.2.3, and 5.6.2.4 of AHAM DW–1–2020. DOE also adopted these requirements in the new appendix C2. 88 FR 3234, 3249.

Accordingly, DOE proposes to amend the reporting requirements at 10 CFR 429.19(b)(3) to include reporting of energy and water use associated with drain out and clean out events, consistent with the information required to be reported by Whirlpool as part of the waiver. These reported values would be used in equations to account for the extra water and energy associated with water re-use systems. Specifically, DOE is proposing that the additional machine electrical energy consumption required for a drain out event and clean out event—expressed in kWh—and the additional water consumption required for drain out and clean out events during a drain out cycle—expressed in gallons per cycle (''gal/cycle'')—be reported confidentially.

DOE seeks comment on its proposal to require that additional machine electrical energy consumption required for a drain out event and clean out event—expressed in kWh—and the additional water consumption required for drain out and clean out events during a drain out cycle—expressed in gal/cycle—be reported confidentially.

e. Dishwashers With Built-In Reservoirs

DOE published a Decision and Order on December 9, 2020 granting CNA International Inc. (''CNA'') a test procedure waiver (''CNA waiver'') for a basic model of a compact DW that does not connect to a water supply line and instead has a built-in reservoir that must be manually filled with water. 85 FR 79171, 79171 and 79173 (Case No. 2020–008).[7]

In the January 2023 DW Final Rule, DOE amended appendix C1 to include the requirements from the CNA waiver, which was specific to a compact DW basic model, to be applicable to a DW of any capacity with a manually filled built-in water reservoir. DOE also adopted these requirements in the new appendix C2. 88 FR 3234, 3241.

Accordingly, DOE proposes to amend the reporting requirements at 10 CFR 429.19(b)(3) to include reporting of the reservoir capacity in gallons, prewash and main wash fill water volume in gallons (if testing is performed using appendix C1), and the total water consumption in gallons per cycle for DWs with built-in reservoirs. DOE's proposal to report the prewash and main wash fill water volumes is only applicable to appendix C1 because these water volumes are used to determine detergent dosage in appendix C1, while the detergent dosage in appendix C2 is dependent on the number of place settings.

DOE seeks comment on its proposal to require reporting of reservoir capacity in gallons, prewash and main wash fill water volume in gallons (if testing is performed using appendix C1), and the total water consumption in gallons per cycle for DWs with built-in reservoirs.

f. Rounding Requirements

DOE proposes to specify at new section 10 CFR 429.19(c) that the represented value of estimated annual energy use must be rounded to the nearest kWh/yr and the represented value of water consumption must be rounded to one decimal place, *i.e.,* the nearest 0.1 gallon per cycle. These rounding requirements are consistent with the existing rounding requirements for DWs specified at 10 CFR 430.23(c)(2) and 10 CFR 430.23(c)(3), respectively.

DOE requests comment on the proposed rounding requirements for DWs.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align the DW certification reporting requirements with the amended test procedure at appendix C1, use of which is required beginning July 17, 2023, and with the newly adopted test procedure at appendix C2, use of which would be required at such time as compliance is required with any amended energy conservation standards based on appendix C2.

For dishwashers, manufacturers currently report the following: (1) the estimated annual energy use in kWh/yr; (2) the water consumption in gallons per cycle; (3) the capacity in number of place settings as specified in ANSI/AHAM DW–1–2010; (4) the presence of a soil sensor, and if present, the number of cycles required to reach calibration; (5) the water inlet temperature used for testing in °F; (6) the cycle selected for the energy test and whether that cycle is soil-sensing; (7) the options selected for the energy test; and (8) the presence of a built-in water softening system, and if present, the energy use in kWh and the water use in gallons required for each regeneration of the water softening system, the number of regeneration cycles per year, and data and calculations used to derive these values. 10 CFR 429.19 (b)(2)–(3). Manufacturers also report whether Cascade Complete powder was used as the detergent formulation in lieu of Cascade with the

[6] All materials regarding the Whirlpool waiver are available in docket EERE–2013–BT–WAV–0042 at *www.regulations.gov.*

[7] All materials regarding the CNA waiver are available in docket EERE–2020–BT–WAV–0024 at *www.regulations.gov.*

Grease Fighting Power of Dawn powder. 10 CFR 429.19(b)(3)(vi). Beginning August 28, 2023, the effective date of the July 2023 DW Final Rule, the reporting requirement pertaining to the detergent formulation would be updated such that manufacturers would be required to report whether Cascade Complete Powder or Cascade with the Grease Fighting Power of Dawn was used as the detergent formulation. 88 FR 48351, 48357. Additionally, when certifying dishwashers, other than water re-use dishwashers, according to appendix C1, the following requirements would be applicable: (A) Before July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification in conjunction with the detergent dosing methods specified in either section 2.5.2.1.1 or section 2.5.2.1.2 of appendix C1. Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1. (B) Beginning July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification of newly certified basic models only in conjunction with the detergent dosing method specified in section 2.5.2.1.2 of appendix C1. Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1. Manufacturers may maintain existing basic model certifications made prior to July 17, 2023, consistent with the provisions of paragraph 10 CFR 429.19(b)(3)(vi)(A). *Id.*

Under the proposed amendments, if adopted, manufacturers would additionally report the following: (1) the cycles selected for the sensor heavy response, sensor medium response, and sensor light response and whether these cycles are soil-sensing if testing is performed using appendix C2; (2) the options selected for the sensor heavy response, sensor medium response, and sensor light response if testing is performed using appendix C2; (3) the average cleaning index for the sensor heavy response, sensor medium response, and sensor light response cycles if testing is performed using appendix C2; (4) whether the product is a water re-use system dishwasher and if so, the energy use in kWh and water use in gallons required for a drain out event, the energy use in kWh and water use in gallons required for a clean out event, the number of drain out events per year, the number of clean out events per year, the water fill volume to calculate detergent dosage in gallons, and data and calculations used to derive these values, as applicable; and (5) the presence of a built-in reservoir and if present, the manufacturer-stated reservoir capacity in gallons, the prewash fill water volume in gallons and the main wash fill water volume in gallons if testing is performed using appendix C1, and the reservoir water consumption in gallons per cycle. DOE is additionally proposing to add rounding requirements for estimated annual energy use and water consumption and remove the ANSI/AHAM DW–1–2010 industry standard that is included as a reference from 10 CFR 429.4.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of DWs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. Additionally, any requirements stemming from the updates to the test procedure were accounted for in the January 2023 Final Rule. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what DW manufacturers are currently doing today.

DOE requests comment on the certification reporting costs of the amendments proposed for DWs.

C. Residential Clothes Washers

DOE is proposing to amend the reporting requirements for RCWs, which are a consumer product designed to clean clothes, utilizing a water solution of soap and/or detergent and mechanical agitation or other movement, that must be one of the following classes: automatic clothes washers, semi-automatic clothes washers, and other clothes washers. 10 CFR 430.2. In the RCWs test procedure final rule published on June 1, 2022 (''June 2022 RCW Final Rule''), DOE amended the existing RCWs test procedure at appendix J2, established a new test procedure at appendix J, which would be required at the time compliance is required with any amended energy and water conservation standards, and removed appendix J1. 87 FR 33316. Consistent with the June 2022 RCW Final Rule, DOE is proposing amendments to the reporting requirements.

1. Reporting

Under the existing requirements in 10 CFR 429.20(b)(2)(i), manufacturers of RCWs tested in accordance with the test procedure at appendix J1 must report: the modified energy factor (''MEF''), the capacity, the corrected moisture content (''RMC''), and the integrated water factor (''IWF''). Under the existing requirements in 10 CFR 429.20(b)(2)(ii), manufacturers of RCWs tested in accordance with the test procedure at appendix J2 must report: the integrated modified energy factor (''IMEF''), the IWF, the capacity, the RMC, and the type of loading (top-loading or front-loading). Under the existing requirements in 10 CFR 429.20(b)(3), all manufacturers of RCWs must also report a list of cycle selections comprising the complete energy test cycle.

DOE is proposing to update these requirements and to specify new reporting requirements that would apply to the new appendix J test procedure and that would be required for certifying compliance only at such time as use of appendix J is required. DOE discusses these proposed updates in the following sections.

a. Removing Appendix J1

Appendix J1 was removed from the CFR as part of the June 2022 RCW Final Rule. 87 FR 33316, 33365. Therefore, the provisions in 10 CFR 429.20(b)(2)(i), which specify reporting requirements for RCWs tested in accordance with appendix J1, are obsolete. For these reasons, DOE proposes to remove these reporting requirements.

DOE requests comment on its proposal to remove reporting requirements applicable to appendix J1 from 10 CFR 429.20(b)(2)(i).

b. Clothes Container Capacity

DOE has established separate product classes for RCWs based on clothes container capacity, among other characteristics. 10 CFR 430.32(g)(4) The current test procedure uses the term ''clothes container capacity'' to refer to the measured capacity (*see* section 3.1 of appendix J2), whereas the current reporting requirements at 10 CFR 429.20(b)(2) use the term ''capacity.'' To provide greater consistency in terminology between the test procedure and the reporting requirements, DOE proposes to update the reporting requirement terminology from ''capacity'' to ''clothes container capacity.''

DOE requests comment on its proposal to update reporting requirement terminology to specify ''clothes container capacity for RCWs.

c. Test Cloth Lot Number

In the June 2022 RCW Final Rule, DOE implemented new language in 10 CFR 429.134(c) that provides additional product-specific enforcement provisions for clothes washers to accommodate differences in RMC values that may result from DOE using a different test cloth lot than was used by the manufacturer for testing and certifying the basic model. 87 FR 33316, 33369–33371. To implement this new enforcement provision, DOE proposes to require reporting the test cloth lot number used during certification testing. DOE also proposes that the reported test cloth lot number would not be public.

DOE requests comment on its proposal to require the reporting of the test cloth lot number for RCWs for the purpose of implementing the enforcement provisions in 10 CFR 429.134(c), as well as its proposal that the reported test cloth lot number would not be public.

d. Specifying Requirements for Appendix J

The new appendix J test procedure establishes new energy and water efficiency metrics for RCWs. Use of appendix J would be required at such time as compliance is required with any amended energy conservation standards based on these new metrics as measured using appendix J. 87 FR 33316. On March 3, 2023, DOE proposed amended standards for clothes washers based on the new metrics as measured using appendix J. 88 FR 13520. Consistent with these new metrics, DOE proposes to specify certification requirements at 10 CFR 429.20(b)(2)(i) corresponding to the use of appendix J, as detailed in the following sections. These reporting requirements would be required only at such time as use of appendix J is required to demonstrate compliance with standards based on the new appendix J metrics.

Energy Efficiency Ratio and Water Efficiency Ratio

Appendix J defines new metrics for representing clothes washer efficiency: energy efficiency ratio (''EER'') [8] and water efficiency ratio (''WER'').[9]

DOE proposes to require including EER and WER as public information in a certification report for RCWs tested in accordance with appendix J.

In the June 2022 RCW Final Rule, DOE established rounding requirements for EER and WER in 10 CFR 430.23(j)(2)(ii) and (j)(4)(ii), respectively. 87 FR 33316, 33381. These requirements specify rounding EER to the nearest 0.01 lb/kWh/cycle and rounding WER to the nearest 0.01 gal/kWh/cycle. DOE proposes to specify these same rounding requirements for EER and WER at 10 CFR 430.29(c).

DOE requests comment on the proposed RCW reporting requirements for EER and WER, including the proposed rounding requirements.

Type of Control System

The existing RCW product classes are applicable to automatic clothes washers.[10] Whereas performance-based standards are currently applicable for all classes of automatic RCWs, DOE has not established performance-based standards for semi-automatic RCWs. On March 3, 2023, DOE published an energy conservation standards NOPR that includes a proposal to re-establish a separate product class and separate performance-based energy conservation standards for semi-automatic RCWs.[11] 88 FR 13520. To distinguish basic models as either automatic or semi-automatic for the purpose of determining whether the current performance-based standards apply, as well as which energy conservation standards would apply if DOE were to finalize its proposal to establish performance-based energy conservation standards for semi-automatic RCWs, DOE proposes to require reporting the type of control system (automatic or semi-automatic) as public information to be included in a certification report for RCWs tested in accordance with appendix J.

DOE requests comment on its proposal to require reporting the type of control system (automatic or semi-automatic) for RCWs.

Other Requirements

For RCWs tested in accordance with appendix J, DOE also proposes to establish public reporting requirements for RMC, clothes container capacity, and type of loading (top-loading or front-loading), consistent with the current reporting requirements specified at 10 CFR 429.20(b)(2)(ii) for RCWs tested in accordance with appendix J2. DOE notes that the current requirement at 10 CFR 429.20(b)(3) to report a list of all cycle selections comprising the complete energy test cycle for each basic model applies to all RCWs and would therefore also apply to any RCW tested in accordance with appendix J. Similarly, the proposed requirement to report test cloth lot number would also apply to RCWs tested in accordance with appendix J. These reporting requirements would be required only at such time as use of appendix J is required to demonstrate compliance with standards based on the new appendix J metrics.

DOE requests comment on its proposal to require reporting of RMC, clothes container capacity, and type of loading (top-loading or front-loading) for RCWs tested in accordance with appendix J.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align RCW certification reporting requirements with the energy conservation requirements that would be applicable to RCWs tested in accordance with appendix J.

Currently, manufacturers report IMEF, IWF, capacity, RMC, loading type, and cycle selections. Manufacturers would additionally report test cloth lot number if the proposed amendments were adopted. For RCWs manufactured after the compliance date of any future energy conservation standards based on use of appendix J, manufacturers would be required to report EER, WER, capacity, RMC, control system type, loading type, cycle selections, and test cloth lot number, if the proposed amendments are adopted.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of RCWs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as

[8] EER is defined as the weighted-average load size in pounds (''lbs'') divided by the sum of (1) the per-cycle machine energy, (2) the per-cycle water heating energy, (3) the per-cycle drying energy, and (4) the per-cycle standby and off mode energy consumption, in kilowatt-hours (''kWh'').

[9] WER is defined as the weighted-average load size in lbs divided by the total weighted per-cycle water consumption for all wash cycles in gallons (''gal'').

[10] DOE defines ''automatic clothes washer'' as a class of clothes washer that has a control system that is capable of scheduling a preselected combination of operations, such as regulation of water temperature, regulation of the water fill level, and performance of wash, rinse, drain, and spin functions without the need for user intervention subsequent to the initiation of machine operation. Some models may require user intervention to initiate these different segments of the cycle after the machine has begun operation, but they do not require the user to intervene to regulate the water temperature by adjusting the external water faucet valves. 10 CFR 430.2.

[11] DOE defines ''semi-automatic clothes washer'' as a class of clothes washer that is the same as an automatic clothes washer except that user intervention is required to regulate the water temperature by adjusting the external water faucet valves. 10 CFR 430.2.

compared to what RCW manufacturers are currently doing today as the proposed amendments are replacement metrics or information that should be readily available.

DOE requests comment on the certification reporting costs of the amendments proposed for RCWs.

D. Pool Heaters

DOE is proposing to amend the reporting requirements for consumer pool heaters. DOE defines pool heaters as an appliance designed for heating non-potable water contained at atmospheric pressure, including heating water in swimming pools, spas, hot tubs, and similar applications. 10 CFR 430.2. In the final rule published on May 30, 2023 (''May 2023 Pool Heaters Final Rule''), DOE amended the energy conservation standards for consumer pool heaters. 88 FR 34624. While the current standards only apply to gas-fired pool heaters, the new and amended standards apply to both gas-fired pool heaters and electric pool heaters (excluding electric spa heaters) [12] and use an updated efficiency metric. *Id.* at 88 FR 34704. Consistent with the May 2023 Pool Heaters Final Rule, DOE is proposing amendments to the reporting requirements for consumer pool heaters.

1. Reporting

Under the existing requirements in 10 CFR 429.24, manufacturers of gas-fired pool heaters must report: thermal efficiency in percent and input capacity in Btu/h. 10 CFR 429.24(b)(1)–(2). These requirements provide for certifying compliance with the April 16, 2013 thermal efficiency standards. The amended standards are based on a different metric: integrated thermal efficiency. (*See* 88 FR 34624, 34625). DOE is proposing to update these certification requirements and align them with the energy conservation standards outlined in the May 2023 Pool Heaters Final Rule. DOE is additionally proposing general certification requirements for consumer pool heaters. DOE discusses these proposed updates in the following paragraphs.

The current standards for consumer pool heaters at 10 CFR 430.32(k) provide only minimum thermal efficiency (''TE'') requirements for gas-fired pool heaters, which does not include standby mode and off mode energy consumption. While the TE metric has historically been used to rate pool heaters, the current test procedure at appendix P to subpart B of 10 CFR part 430 (''appendix P'') includes provisions to determine the new integrated thermal efficiency (''TE_I'') metric, which includes standby mode and off mode energy consumption as required by EPCA. Hence, the May 2023 Pool Heaters Final Rule established new and amended standards for gas-fired pool heaters and electric pool heaters in terms of TE_I. (88 FR 34624, 34625) In the May 2023 Pool Heaters Final Rule, DOE stated that it would consider requirements for reporting and certifying TE_I in lieu of TE in a separate rulemaking. 88 FR 34624, 34636. DOE stated that it would also consider requirements for reporting and certifying active electrical power [13] along with the representative value for TE_I in a separate rulemaking. *Id.*

In the pool heaters energy conservation standards NOPR rulemaking (''April 2022 Pool Heaters NOPR''), DOE addressed comments from Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') regarding the level of precision required for representations of TE_I. 87 FR 22640, 22652 (Apr. 15, 2022). AHRI suggested that, for products where the efficiency ratings are less than 100 percent, a change of one or two points may make a difference; however, for products such as heat pump pool heaters with efficiency ratings that can exceed 300 percent, a difference of one or two points is inconsequential. *Id.* DOE stated that it would consider rounding requirements for consumer pool heaters in a separate rulemaking addressing certification reports. *Id.*

The April 2022 Pool Heaters NOPR sought comment on changes to certification and enforcement requirements. *Id.* DOE received comments from Rheem Manufacturing Company (''Rheem'') regarding certification provisions for consumer pool heaters. Rheem recommended that DOE update the certification provisions at 10 CFR 429.24 to require certification of TE_I and either input capacity or active electrical power as necessary. (Rheem, Docket No. EERE–2021–BT–STD–0020, No. 19 at p. 2) Rheem also recommended that DOE evaluate adding certification provisions—similar to the requirements for consumer water heaters—which allow for the propane gas version of a basic model to be rated using the natural gas version if the propane gas input rate is within 10 percent of the natural gas input rate. (Rheem, Docket No. EERE–2021–BT–STD–0020, No. 19 at p. 10)

In response to Rheem's request to use representations of natural gas basic models for propane basic models, DOE notes that the water heater certification provisions referenced by the commenter are specifically for alternative efficiency determination methods (*see* 10 CFR 429.70(g)(1)). At this time, manufacturers of consumer pool heaters are not authorized to use alternative efficiency determination methods for representations pertaining to consumer pool heaters (*see* 10 CFR 429.70(a)), and the May 2023 Pool Heaters Final Rule did not establish this allowance. (88 FR 34624) Hence, DOE is not proposing special certification requirements for propane gas-fired pool heaters.

For consumer pool heaters, DOE proposes to clarify provisions for certifying input capacity, establish provisions for certifying active electrical power, and establish certification requirements for TE_I (including rounding requirements). DOE has tentatively determined that certification of input capacity and active electrical power is necessary because these values are used to determine the TE_I standard that applies to a pool heater.

DOE proposes to clarify that representations of input capacity for gas-fired pool heaters must be made based on the average of the input capacities measured for each tested unit of the basic model, and rounded to the nearest 1,000 Btu/h.

There are currently no certification requirements for electric pool heaters. DOE is proposing to establish requirements for active electrical power similar to those for input capacity, because these two values are analogous to each other for electric pool heaters and gas-fired pool heaters, respectively.

The May 2023 Pool Heaters Final Rule will require compliance with standards using the TE_I metric; hence, DOE is also proposing to require certification of this value. The represented value for TE_I would be rounded to the nearest tenth of one percent for gas-fired pool heaters. However, in consideration of the comments from AHRI indicating that the level of precision does not need to be so stringent for electric pool heaters, DOE is proposing that the value for TE_I would be rounded to the nearest 1 percent for electric pool heaters. Until compliance with new TE_I standards is mandatory, manufacturers of gas-fired pool heaters must still ensure that these

[12] ''Electric pool heater'' means a pool heater other than an electric spa heater that uses electricity as its primary energy source. An ''electric spa heater'' means a pool heater that (1) uses electricity as its primary energy source; (2) has an output capacity of 11 kW or less; and (3) is designed to be installed within a portable electric spa. 88 FR 34624, 34703. DOE did not establish standards for electric spa heaters in the May 2023 Pool Heaters Final Rule, so the certification requirements proposed in this NOPR pertain only to electric pool heaters.

[13] ''Active electrical power'' means the maximum electrical power consumption in active mode for an electric pool heater.

products comply with the current TE standards at 10 CFR 430.32(k). Therefore, DOE is maintaining the requirement for certifying TE of gas-fired pool heaters for products that must comply with TE standards. Reporting of TE_I would become mandatory upon the compliance date of the energy conservation standards adopted in the May 2023 Pool Heaters Final Rule, May 30, 2028, at which time manufacturers would no longer be required to report TE.

DOE seeks comment on its proposal to require the reporting of input capacity, active electrical power, and integrated thermal efficiency. DOE also seeks comment on the proposed rounding requirements.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align pool heater certification reporting requirements with the energy conservation requirements that would be applicable to pool heaters, as finalized in the May 2023 Pool Heaters Final Rule.

For gas-fired pool heaters, manufacturers currently report TE as a percentage and input capacity in Btu/h. As a result of the amended standards, manufacturers of gas-fired pool heaters would be required to report TE_I as a percentage in lieu of TE when certifying compliance with the revised standards. For electric pool heaters, manufacturers are not currently required to submit certification reports as there are no applicable standards at this time. As a result of the amended standards, manufacturers of electric pool heaters would be required to report TE_I as a percentage and active electrical power in Btu/h. 88 FR 34624, 34704.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers of gas-fired pool heaters because manufacturers of gas-fired pool heaters are already submitting certification reports to DOE and should have the information that DOE is proposing to collect as part of this rulemaking readily available. DOE does not believe the revised reporting requirements will cause any appreciable increase in any manufacturer's reporting burden or hours compared to certifying under current gas-fired pool heater requirements. For electric pool heaters, manufacturers are not currently required to submit certification reports to DOE because electric pool heaters are not currently subject to any applicable energy conservation standards. Any manufacturer of electric pool heaters would be required to submit certification reports for electric pool heaters upon the compliance date of the amended energy conservation standards, May 30, 2028. 88 FR 34624, 34704. Costs associated with the proposed updates to reporting requirements are discussed in section IV.C of this document.

DOE requests comment on the certification reporting costs of the amendments proposed for pool heaters.

E. Dehumidifiers

DOE is proposing to amend the reporting requirements for dehumidifiers, which DOE defines as products—other than portable air conditioners, room air conditioners, or packaged terminal air conditioners—that are self-contained, electrically operated, and mechanically encased assemblies consisting of (1) a refrigerated surface (evaporator) that condenses moisture from the atmosphere; (2) a refrigerating system, including an electric motor; (3) an air-circulating fan; and (4) a means for collecting or disposing of the condensate. 10 CFR 430.2. Use of appendix X1 to subpart B of 10 CFR part 430 is currently required for any representations of energy use or efficiency of portable and whole-home dehumidifiers, including demonstrating compliance with the currently applicable energy conservation standards. Consequently, appendix X to subpart B of 10 CFR part 430 is obsolete for dehumidifiers manufactured on or after June 13, 2019. Therefore, DOE is proposing amendments to the remove the outdated appendix X reporting requirements, consistent with the proposed removal of appendix X in the test procedure NOPR published on June 9, 2022 (''June 2022 Dehumidifiers NOPR''). 87 FR 35286, 35305.

1. Reporting

Under the existing requirements in 10 CFR 429.36, manufacturers must report: energy factor in liters per kilowatt hour (''liters/kWh'') and capacity in pints per day when certifying compliance with dehumidifiers tested in accordance with appendix X. 10 CFR 429.36(b)(2)(i). However, use of appendix X is no longer permitted for compliance because use of appendix X1 to subpart B of part 430 (''appendix X1'') is required to demonstrate compliance with standards for products manufactured on or after June 13, 2019, and the June 2022 Dehumidifiers NOPR proposed the removal of appendix X. 87 FR 35286, 35305. DOE is proposing to remove the outdated appendix X certification requirements consistent with the proposed removal of appendix X in the June 2022 Dehumidifiers NOPR.

DOE seeks comment on its proposal to remove the outdated appendix X certification requirements.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align dehumidifier certification reporting requirements with the appendix X1 test procedure requirements, use of which was required beginning on June 13, 2019, by removing the appendix X requirements applicable to dehumidifiers manufactured prior to June 13, 2019.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because the only proposed amendments are the removal of outdated requirements. DOE is not proposing any amendments to the reporting requirements associated with appendix X1 and is proposing to remove certification requirements associated with a prior appendix. Therefore, DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours compared to certifying under current dehumidifier requirements.

DOE requests comment on the certification reporting costs of the amendments proposed for dehumidifiers.

F. External Power Supplies

DOE is proposing to amend the reporting requirements for EPSs. DOE defines an EPS as an external power supply circuit that is used to convert household electric current into direct current or lower-voltage AC current to operate a consumer product. 10 CFR 430.2. In the test procedure final rule published on August 19, 2022, DOE amended the appendix Z test procedure for EPSs. 87 FR 51200. Consistent with that final rule, DOE is proposing amendments to the reporting requirements.

1. Reporting

Under the existing requirements in 10 CFR 429.37(b)(2), manufacturers must report the following based on the external power supply type:

For external power supplies, manufacturers currently report the average active mode efficiency as a percentage, no-load mode power consumption in watts, nameplate output power in watts, and, if missing from the nameplate, the output current in amperes of the basic model or the output current in amperes of the highest- and lowest-voltage models within the external power supply design family.

For switch-selectable single-voltage external power supplies, manufacturers currently report the average active mode efficiency as a percentage, no-load mode power consumption in watts using the lowest and highest selectable output voltages, nameplate output power in watts, and, if missing from the nameplate, the output current in amperes.

For adaptive single-voltage external power supplies, manufacturers currently report the average active-mode efficiency as a percentage at the highest and lowest nameplate output voltages, no-load mode power consumption in watts, nameplate output power in watts at the lowest and highest nameplate output voltages, and, if missing from the nameplate, the output current in amperes at the lowest and highest nameplate output voltages.

For external power supplies that are exempt from no-load mode requirements, manufacturers currently report a statement that the product is designed to be connected to a security or life safety alarm or surveillance system component, the average active-mode efficiency as a percentage, the nameplate output power in watts, and if missing from the nameplate, the certification report must also include the output current in amperes of the basic model or the output current in amperes of the lowest- and highest-voltage models within the external power supply design family. Manufacturers of these exempt external power supplies are additionally required to report, if the aggregate total number of exempt EPSs sold as spare and service parts exceeds 1,000 units across all models: the importer or domestic manufacturer's name and address, the brand name, and the number of units sold during the most recent 12-calendar-month period ending on July 31. 10 CFR 429.37(b)(3) and 10 CFR 429.37(c).

These requirements provide for certifying compliance with the energy conservation standards applicable to EPSs manufactured on or after February 10, 2014. DOE is proposing to align the reporting requirements with the amended appendix Z test procedure, use of which was required beginning September 19, 2022, and proposing general certification requirements for EPSs. DOE discusses these proposed updates in the sections as follows.

a. Output Cord Specifications

DOE's amended EPS test procedure requires that EPSs be tested with the output cord they are shipped with. For EPSs not shipped with an output cord, the EPS must be tested with a manufacturer's recommended output cord. For EPSs not shipped with an output cord and for which the manufacturer does not recommend an output cord, the amendments specify that the EPS must be tested with a 3-foot-long output cord with a conductor thickness that is minimally sufficient to carry the maximum required current. *See* section 4(g) of appendix Z to subpart B of 10 CFR part 430.

To better align the reporting requirements with the test procedure, DOE is proposing to add a reporting requirement of the included output cord specifications (gauge and length); for EPSs not shipped with an output cord, the specifications (gauge and length) for the manufacturer's recommended output cord would be provided. For EPSs not shipped with an output cord and for which the manufacturer does not recommend an output cord, the gauge of the 3-foot-long output cord will be provided.

DOE seeks comment on its proposal to require the reporting of output cord specifications for EPSs.

b. Output Voltage

In DOE's current EPS test procedure and energy conservation standards, determining factors for EPS type and product class are the nature of the output voltage and its measured value. Output voltage type—(*i.e.* AC, DC, multiple voltage and/or adaptive) determines the applicable portion of the test procedure and the template that must be used for certification purposes. The measured value of the voltage determines whether the EPS falls within the basic or low voltage product class. To better align the reporting requirements with the test procedure and energy conservation standards for EPSs, DOE is proposing to add a reporting requirement for the measured output voltage for each port.

DOE seeks comment on its proposal to require the reporting of measured output voltage for EPSs for each port.

c. Additional Date Reporting Requirements for Exempt EPSs

To further clarify the time period during which the exempt EPSs were sold, DOE is proposing to further require the manufacturer to report the applicable timeframe of which the number of exempt EPSs were sold.

DOE seeks comment on its proposal to require manufacturers of exempt EPSs to report the year for which the sales number being reported represents.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align EPS certification reporting requirements with the revised appendix Z test procedure requirements, use of which was required beginning September 19, 2022.

For switch-selectable single-voltage external power supplies, manufacturers currently report the average active mode efficiency as a percentage, no-load mode power consumption in watts using the lowest and highest selectable output voltages, nameplate output power in watts, and, if missing from the nameplate, the output current in amperes, and would additionally report included or recommended output cord specifications and the measured output voltage at the lowest and highest selectable output voltages if the proposed amendments are adopted.

For adaptive single-voltage external power supplies, manufacturers currently report the average active-mode efficiency as a percentage at the highest and lowest nameplate output voltages, no-load mode power consumption in watts, nameplate output power in watts at the lowest and highest nameplate output voltages, and, if missing from the nameplate, the output current in amperes at the lowest and highest nameplate output voltages, and would additionally report included or recommended output cord specifications and the measured output voltage at the lowest and highest nameplate output voltages if the proposed amendments are adopted.

For external power supplies that are exempt from no-load mode requirements, manufacturers currently report a statement that the product is designed to be connected to a security or life safety alarm or surveillance system component, the average active-mode efficiency as a percentage, the nameplate output power in watts, and if missing from the nameplate, the certification report must also include the output current in amperes of the basic model or the output current in amperes of the lowest- and highest-voltage models within the external power supply design family, and would additionally report included or recommended output cord specifications and the measured output voltage or the measured output voltage of the lowest and highest voltage models within the external power supply design family, and the timeframe of which these exempt EPSs were sold, if the proposed amendments are adopted.

For all other external power supplies, manufacturers currently report the average active mode efficiency as a percentage, no-load mode power consumption in watts, nameplate output power in watts, and, if missing from the nameplate, the output current in

amperes of the basic model or the output current in amperes of the highest- and lowest-voltage models within the external power supply design family, and would additionally report included or recommended output cord specifications and the measured output voltage or the measured output voltage of the lower and highest voltage models within the external power supply design family if the proposed amendments are adopted.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of EPSs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what EPS manufacturers are currently doing today.

DOE requests comment on the certification reporting costs of the amendments proposed for EPSs.

G. Battery Chargers

DOE is proposing to amend the reporting requirements for battery chargers, which DOE defines as devices that charge batteries for consumer products, including battery chargers embedded in other consumer products. 10 CFR 430.2. In the test procedure final rule published on September 8, 2022 (''September 2022 Battery Charger Final Rule''), DOE amended the scope of coverage and test procedure provisions for battery chargers. 87 FR 55090. On March 15, 2023, DOE published an energy conservation standards NOPR for battery chargers that was developed based on the amended test procedure. 88 FR 16112. Consistent with the test procedure final rule and the energy conservation standards NOPR, DOE is proposing to reorganize current reporting requirements and add new reporting requirements that would become mandatory upon the compliance date of any future amended energy conservation standards for battery chargers.

1. Reporting

Under the existing requirements in 10 CFR 429.39, manufacturers must report: (1) the nameplate battery voltage of the test battery in volts, the nameplate battery charge capacity of the test battery in ampere-hours, and the nameplate battery energy capacity of the test battery in watt-hours; and (2) the represented values for the maintenance mode power (P_m), standby mode power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), 24-hour energy consumption (E_{24}), duration of the charge and maintenance mode test (t_{cd}), and unit energy consumption (UEC); and (3) the manufacturer and model of the test battery, and the manufacturer and model, when applicable, of the external power supply. 10 CFR 429.39. These requirements provide for certifying compliance with the energy conservation standards applicable to battery chargers manufactured on or after June 13, 2018. DOE is proposing to reorganize these requirements and align the reporting requirements with the amended test procedure at appendix Y to subpart B of part 430 (''appendix Y''), use of which was required beginning on March 7, 2023. DOE is also proposing new reporting requirements to the certification requirements for battery chargers tested under appendix Y1 to subpart B of part 430 (''appendix Y1''), use of which would be required upon the compliance date of any future amended energy conservation standards for battery chargers. DOE discusses these proposed appendix Y1 updates in the sections as follows.

a. Reporting Requirements for Battery Chargers Tested Under Appendix Y1

In the September 2022 Battery Charger Final Rule, DOE established a new appendix Y1 for the multi-metric testing approach for battery chargers. Under the new multi-metric testing approach, instead of computing and reporting the UEC value, which captures the performance of a battery charger in all modes of operation into a single metric, manufacturers are required to calculate and report the battery charger energy and power values for each mode of operation separately. These modes consist of active charge mode, standby mode, and off mode. 87 FR 55090, 55100–55105.

DOE is proposing to update the battery charger reporting requirements in 10 CFR 429.39 to align with the new multi-metric test procedure by (1) removing the UEC reporting requirement for both wired and fixed-location wireless battery chargers tested under appendix Y1, and (2) adding reporting requirements for active charge energy E_a and no-battery mode power P_{nb}. Additionally, DOE is proposing to include active charge energy E_a (as measured in accordance with appendix Y1) as an optional reporting requirement when certifying compliance with the existing appendix Y requirements to assist DOE in gathering data for any future amended energy conservation standards. Whether manufacturers choose to report this proposed optional information would have no impact on the validity of representations made when certifying compliance with appendix Y or the current energy conservation standards.

DOE seeks comment on the proposed updates to reporting requirements for wired and fixed-location wireless battery chargers tested under appendix Y1.

b. Reporting Requirements for Open-Placement Wireless Battery Chargers Tested Under Appendix Y1

In the September 2022 Battery Charger Final Rule, DOE also expanded the battery charger testing scope to include testing of fixed-location wireless chargers in all modes of operation and testing of open-placement wireless chargers in no-battery mode only. 87 FR 55090, 55095–55098.

Under the current appendix Y test procedure, all modes of operation would need to be tested for battery chargers covered under the test procedure scope. As such, there was no need to differentiate the reporting requirements for wired vs. wireless chargers. However, under appendix Y1, open-placement wireless chargers will only need to be tested in the no-battery mode of operation. Accordingly, DOE is proposing to further specify that for open-placement wireless chargers, only the no-battery mode power, P_{nb}, would need to be reported.

DOE seeks comment on the proposal to further specify the reporting requirements for open-placement wireless battery chargers tested under appendix Y1.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align battery charger certification reporting requirements with the amended appendix Y test procedural requirements, use of which was required beginning on October 11, 2022, and the newly established appendix Y1 test procedure, use of which would be required at such time as compliance is required with any amended energy conservation standards based on these new metrics as measured using appendix Y1.

For wired chargers tested under current appendix Y, manufacturers currently report (1) the nameplate battery voltage of the test battery in volts, the nameplate battery charge capacity of the test battery in ampere-hours, and the nameplate battery energy capacity of the test battery in watt-hours; and (2) the represented values for the P_m, P_{sb}, P_{off}, E_{batt}, E_{24}, t_{cd}, and UEC; and (3) the manufacturer and model of the test battery, and the manufacturer

and model, when applicable, of the external power supply. If the proposed amendments are adopted, when tested under appendix Y1, instead of reporting UEC and E_{24} values, manufacturers would report the active charge energy (E_a). Manufacturers would additionally report no-battery mode power, P_{nb}.

For fixed-location wireless chargers tested under appendix Y1, manufacturers would need to report (1) the nameplate battery voltage of the test battery in volts, the nameplate battery charge capacity of the test battery in ampere-hours, and the nameplate battery energy capacity of the test battery in watt-hours; and (2) the represented values for the P_m, P_{nb}, P_{sb}, P_{off}, E_{batt}, E_a, and duration of the charge and t_{cd}; and (3) the manufacturer and model of the test battery, and the manufacturer and model—when applicable—of the external power supply, if the proposed amendments are adopted.

For open-placement wireless chargers tested under appendix Y1, manufacturers would need to report the represented values for P_{nb}, and the manufacturer and model, when applicable, of the external power supply, if the proposed amendments are adopted.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of battery chargers are already submitting certification reports to DOE and the additional information that DOE is proposing to collect as part of this rulemaking should be readily available to manufacturers and would not require additional testing. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what battery charger manufacturers are currently doing today.

DOE requests comment on the certification reporting costs of the amendments proposed for battery chargers.

H. Computer Room Air Conditioners

DOE is proposing to amend the reporting requirements for CRACs. DOE defines ''computer room air conditioner'' as a basic model of commercial package air-conditioning and heating equipment (packaged or split) that is: used in computer rooms, data processing rooms, or other information technology cooling applications; rated for sensible coefficient of performance (SCOP) and tested in accordance with 10 CFR 431.96; and is not a covered consumer product under 42 U.S.C. 6291(1)–(2) and 42 U.S.C. 6292. A CRAC may be provided with, or have as available options, an integrated humidifier, temperature and/or humidity control of the supplied air, and reheating function. 10 CFR 431.92. In the energy conservation standards final rule published in the **Federal Register** on June 2, 2023 (June 2023 CRACs final rule), DOE amended the energy conservation standards for CRACs and adopted the net sensible coefficient of performance (NSenCOP) metric. 88 FR 36392. Consistent with the June 2023 CRACs final rule, DOE is proposing amendments to the reporting requirements for CRACs.

1. Reporting

Under the existing reporting requirements for CRACs in 10 CFR 429.43(b)(2)(ix), manufacturers must report: net sensible cooling capacity in Btu/h, net cooling capacity in Btu/h, configuration (upflow/downflow), economizer presence (or lack thereof), condenser medium (air, water, or glycol-cooled), SCOP, and rated airflow in standard cubic feet per minute (SCFM). These requirements provide for certifying compliance with the standards applicable to CRACs manufactured on or after October 29, 2012, for units of capacity less than 65,000 Btu/hr. and October 29, 2013, for the remainder of covered CRACs. DOE is proposing to update these requirements and align the reporting requirements with the energy conservation standards in the June 2023 CRACs final rule. DOE is also proposing other general certification requirements for CRACs to better ascertain applicable standards and represented values, including whether the basic model is split system or single-package, unit configuration, and refrigerant utilized. DOE discusses these proposed updates in the sections as follows.

a. Revising Certification Reporting Requirements at 10 CFR 429.43(b)(2)(ix) When Certifying With NSenCOP Standards

Manufacturers are currently required to certify compliance with SCOP standards, in addition to the other equipment-specific reporting requirements. In this NOPR, DOE is proposing to amend the certification requirements to allow certifying compliance with NSenCOP standards and related equipment-specific reporting requirements. Specifically, DOE proposes to place the existing reporting requirements for SCOP standards in new 10 CFR 429.43(b)(2)(ix)(A), and to place the new reporting requirements for NSenCOP standards in new 10 CFR 429.43(b)(2)(ix)(B). The NSenCOP standard reporting requirements include the net sensible cooling capacity in Btu/h, the net total cooling capacity in Btu/h, whether the basic model is split system or single-package, the configuration (*e.g.,* downflow, upflow ducted, upflow non-ducted, horizontal flow, ceiling-mounted ducted, ceiling-mounted non-ducted), fluid economizer presence (or lack thereof), condenser heat rejection medium (air, water, or glycol-cooled), NSenCOP, rated airflow in SCFM, and the refrigerant used to determine the represented values at 10 CFR 429.43(b)(2)(ix).

DOE seeks comment on its proposal to require the reporting of net sensible cooling capacity in Btu/h, the net total cooling capacity in Btu/h, whether the basic model is split system or single-package, the configuration (*e.g.,* downflow, upflow ducted, upflow non-ducted, horizontal flow, ceiling-mounted ducted, ceiling-mounted non-ducted), fluid economizer presence (or lack thereof), condenser heat rejection medium (air, water, or glycol-cooled), NSenCOP, rated airflow in SCFM, and the refrigerant used to determine the represented values.

b. Adding Supplemental Testing Instructions for CRACs at 10 CFR 429.43(b)(4)(viii)

Currently, manufacturers must submit supplemental information regarding additional testing instructions, if applicable, and specify which special features, if any, were included in rating the basic model. 10 CRF 429.43(b)(4)(viii). The supplemental information submitted in PDF format allows for third-party testing of equipment. For CRACs, there are currently no specific requirements for the supplemental PDF. For SCOP certification, DOE proposes to maintain the current requirements of 10 CFR 429.43(b)(4)(viii), but move them to 10 CFR 429.43(b)(4)(viii)(A). For NSenCOP certification, DOE proposes to specify the information required in supplemental testing instructions that would enable independent testing of the relevant equipment and to align with the corresponding requirements for CUACs, where appropriate. This includes, but is not limited to supplementary information about compressor break-in period duration, control set points, optional motor/drive kits and associated settings, and any other additional testing instructions. DOE proposes to add these new provisions when certifying to NSenCOP in 10 CFR 429.43(b)(4)(viii)(B).

The proposed certification requirements provide further direction to the existing requirements and would not result in significant additional burden for manufacturers. Where DOE identifies specific test-related information, the relevant information is already collected by or available to the manufacturer, and as such, reporting that information to DOE would result in minimal additional burden.

DOE seeks comment on its proposed supplemental testing instructions requirements for CRACs when certifying compliance with NSenCOP standards.

c. Certification of Model Numbers for Split Systems

DOE's current certification reporting requirements for CRACs at 10 CFR 429.43(b)(2)(ix) do not specify the model numbers that the manufacturer must certify. Specifically, for split systems, the current regulations do not explicitly require certification of both the outdoor and indoor unit model numbers. Therefore, DOE is proposing at 10 CFR 429.43(b)(6) to clarify that the manufacturer must certify individual model numbers for both the indoor unit and the outdoor unit.

DOE seeks comment on its proposal to require the reporting of both indoor unit and outdoor unit individual model numbers for split-system CRACs.

d. AEDM Tolerance for NSenCOP

DOE's existing testing regulations allow the use of an alternative efficiency determination method (AEDM), in lieu of testing, to simulate the efficiency of CRACs. 10 CFR 429.43(a). For models certified with an AEDM, results from DOE verification tests are subject to certain tolerances when compared to certified ratings. Currently, DOE specifies a 5-percent tolerance for CRAC verification tests for SCOP, identical to the current tolerance specified for single-point metrics (*i.e.,* EER and COP) for other categories of commercial air conditioners and heat pumps. *See* table 2 to paragraph (c)(5)(vi)(B) at 10 CFR 429.70. In alignment with the tolerance specified for SCOP, DOE is proposing to specify a tolerance of 5 percent for CRAC verification tests for NSenCOP.

DOE seeks comment on its proposal to specify a tolerance of 5 percent for CRAC verification tests for NSenCOP.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align CRAC certification reporting requirements with the amended energy conservation standards in the June 2023 CRACs Final Rule.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of CRACs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what CRACs manufacturers are currently doing.

DOE requests comment on the certification reporting costs of the amendments proposed for CRACs.

I. Direct Expansion-Dedicated Outdoor Air Systems

DOE is proposing to establish reporting requirements for DX–DOASes. DOE defines ''direct expansion-dedicated outdoor air system'' as a basic model of commercial package air-conditioning and heating equipment (packaged or split) that is a unitary dedicated outdoor air system [14] that is capable of dehumidifying air to a 55 °F dew point—when operating under Standard Rating Condition A as specified in Table 4 or Table 5 of AHRI (I–P)-2020, ''Performance Rating of DX–Dedicated Outdoor Air System Units'' (''AHRI 920–2020'') with a barometric pressure of 29.92 in Hg—for any part of the range of airflow rates advertised in manufacturer materials, and has a moisture removal capacity of less than 324 pounds per hour (''lb/h''). 10 CFR 431.92. In the DX–DOAS energy conservation standards final rule published on November 1, 2022 (''November 2022 DX–DOAS Final Rule''), DOE adopted energy conservation standards for DX–DOASes. 87 FR 65651. Consistent with that final rule, DOE is proposing to establish reporting requirements for DX–DOASes.

1. Reporting

Prior to the adoption of energy conservation standards in the November 2022 DX–DOAS Final Rule, there were no energy conservation standards for DX–DOASes in 10 CFR 431.97, nor were there reporting requirements for this equipment in 10 CFR 429.43.[15] Because DOE has now adopted energy conservation standards for DX–DOASes, DOE is proposing to establish reporting requirements in alignment with the standards adopted in the November 2022 DX–DOAS Final Rule. DOE discusses these proposals in the following sections.

a. Addition of Certification Requirements To Include the New Metrics, ISMRE2 and ISCOP2

In this NOPR, DOE is proposing certification requirements for certifying compliance with the new energy conservation standards for DX–DOAS, expressed in integrated seasonal moisture removal efficiency 2 (''ISMRE2'') and integrated seasonal coefficient of performance 2 (''ISCOP2''), as adopted in the November 2022 DX–DOAS Final Rule. Specifically, DOE proposes to add new 10 CFR 429.43(b)(2)(xi)(A) and require the following when certifying compliance with an ISMRE2 standard: the ISMRE2 in lb/kWh, the rated moisture removal capacity at Standard Rating Condition A according to AHRI 920–2020 (incorporated by reference; *see* 10 CFR 429.4) (MRC in lb/h), and the rated supply airflow rate for 100 percent outdoor air applications (Q_{SA} in standard cubic feet per minute). The moisture removal capacity is used for certifying compliance and the rated supply airflow rate must be specified to determine how to test a basic model according to the DOE test procedure at appendix B to subpart F of 10 CFR part 431.

Additionally, DOE proposes to require the following at 10 CFR 429.43(b)(2)(xi)(B) when certifying compliance with an ISCOP2 standard in addition to an ISMRE2 standard [16]: the ISCOP2 in watts of heating per watts of power input (''W/W'').

DOE proposes to include these certification provisions for DX–DOASes in 10 CFR 429.43(b), consistent with other commercial HVAC equipment. As a result, the general requirements applicable to certification reports outlined in 10 CFR 429.12 would apply to DX–DOASes, as currently outlined in the existing reporting requirements for commercial HVAC equipment. 10 CFR 429.43(b)(1).

[14] DOE defines ''unitary dedicated outdoor air system'' as a category of small, large, or very large commercial package air-conditioning and heating equipment that is capable of providing ventilation and conditioning of 100-percent outdoor air and is marketed in materials (including but not limited to, specification sheets, insert sheets, and online materials) as having such capability.

[15] In the November 2022 DX–DOAS Final Rule, DOE adopted a requirement in 10 CFR 429.43(a)(3)(i) that the represented value of moisture removal capacity (''MRC'') be either between 95 and 100 percent of the mean of the measured capacities of the units in the selected sample rounded to the nearest lb/hr multiple according to Table 3 of AHRI 920–2020 or the MRC output simulated by an AEDM rounded to the nearest lb/hr multiple according to Table 3 of AHRI 920–2020. DOE is adopting these provisions. 87 FR 65658, 65667.

[16] Certification and compliance with both the applicable ISCOP2 and ISMRE2 standards is required for the air-source heat pump and water-source heat pump DX–DOAS equipment classes.

DOE seeks comment on requiring the reporting of ISMRE2 and ISCOP2 to certify compliance with the standards applicable to DX–DOASes manufactured on or after May 1, 2024. DOE also seeks comment on reporting rated moisture removal capacity and rated supply airflow rate.

b. Reporting Requirements for DX–DOASes With Ventilation Energy Recovery Systems

In the November 2022 DX–DOAS Final Rule, DOE adopted product-specific enforcement provisions for DX–DOASes in 10 CFR 429.134(s) in addition to the revised energy conservation standards. These enforcement provisions specify how DOE would determine the ISMRE2 and ISCOP2 values when conducting enforcement testing for DX–DOASes with Ventilation Energy Recovery Systems (''VERS''). As outlined in § 429.134(s)(2)–(3), these provisions rely on values of VERS performance certified to DOE as the basis for determining the ISMRE2 and/or ISCOP2 of the basic model being tested in some scenarios.

To inform DOE's enforcement testing, DOE is proposing additional non-public certification reporting requirements for DX–DOASes with VERS in new subparagraph 10 CFR 429.43(b)(3)(iii). These reporting requirements include the method of determination of the exhaust air transfer ratio (''EATR''), sensible effectiveness, latent effectiveness of the ventilation energy recovery system *(*name and version of certified performance modeling software or if the device was directly tested), the test method (*i.e.,* Option 1 or Option 2) for units rated based on testing, and motor control settings (including rotational speed) for energy recovery wheels—all of which would be used by DOE to determine ISMRE2 and/or ISCOP2 for enforcement testing and would be considered non-public information if adopted.

DOE seeks comment on its proposal to include reporting requirements for DX–DOASes with ventilation energy recovery systems.

c. Supplemental Testing Instructions

Currently, manufacturers of other covered commercial HVAC equipment types must submit in PDF format supplemental information regarding additional testing instructions, if applicable, and they must also specify which, if any, special features were included in rating the basic model. 10 CFR 429.43(b)(4). The supplemental information submitted in PDF format allows for third-party testing of equipment. Consistent with other commercial HVAC equipment types, DOE proposes to specify information required in supplemental testing instructions submitted in PDF format for DX–DOASes to enable independent testing of the relevant equipment and to align with the corresponding requirements for CUACs, where appropriate.

Specifically, for all DX–DOASes, DOE is proposing the following content requirements for the supplemental instructions PDF attachment: water flow rate in gallons per minute (''gpm'') for water-cooled and water-source units, rated external static pressure (''ESP'') in inches of water column for the supply air stream, frequency or control set points for variable speed components (*e.g.,* compressors, Variable Frequency Drives (''VFDs'')), required dip switch/control settings for step or variable components (*e.g.,* reheat or head pressure control valves), a statement as to whether the model will operate at test conditions without manufacturer programming, and any additional testing instructions specified in AHRI 920–2020, if applicable (*e.g.,* supply air dry bulb temperatures for ISMRE2 tests, equipment settings for airflow, installation priority for split-system units, defrost control settings for air-source heat pump units, compressor break-in period, or condenser head pressure controls). Additionally, if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, DOE is proposing that the supplemental file also include the model number, the specifications of the motor (including efficiency, horsepower, open/closed, and number of poles) and the drive kit (including settings) associated with that specific motor that were used to determine the certified rating.

For DX–DOASes with VERS, DOE is proposing the following additional content requirements for the supplemental instruction PDF attachment: rated ESP in inches of water column for the return air stream, exhaust air transfer ratio at the rated supply airflow rate and a neutral pressure difference between return and supply airflow (EATR as a percent value), sensible and latent effectiveness of the ventilation energy recovery system at 75 percent of the nominal supply airflow and zero pressure differential, sensible and latent effectiveness of the ventilation energy recovery system at 100 percent of the nominal supply airflow and zero pressure differential, and any additional testing instructions, if applicable (*e.g.,* deactivation of VERS or VERS bypass in accordance with section 5.4.3 of AHRI 920–2020).

DOE seeks comment on its proposal to require supplemental testing instruction file contents for DX–DOASes.

2. Reporting Costs and Impacts

The addition of reporting requirements for DX–DOASes would newly require manufacturers to report this information. DOE discusses reporting cost impacts corresponding to this proposal in section IV.C of this document.

DOE requests comment on its proposal to add new reporting requirements for DX–DOASes.

J. Air Cooled, Three-Phase, Small Commercial Air Conditioners and Heat Pumps With a Cooling Capacity of Less Than 65,000 Btu/h and Air-Cooled, Three-Phase, Variable Refrigerant Flow Air Conditioners and Heat Pumps With a Cooling Capacity of Less Than 65,000 Btu/h

DOE is proposing to amend the reporting requirements for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF. Three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF are both categories of small commercial package air conditioning and heating equipment. Commercial package air-conditioning and heating equipment may be air cooled, water cooled, evaporatively cooled, or water source based (not including ground water source). This equipment is electrically operated and designed as unitary central air conditioners or central air conditioning heat pumps for use in commercial applications. 10 CFR 431.92.

In the energy conservation standards (''ECS'') final rule published in the **Federal Register** on June 2, 2023 (''June 2023 3-Phase Final Rule''), DOE amended energy conservation standards for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF to be in terms of the new cooling and heating metrics, SEER2 and HSPF2, respectively, as determined by using the new test procedure at appendix F1 to subpart F of 10 CFR part 431. 88 FR 36368. Consistent with that final rule, DOE is proposing amendments to the reporting requirements for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF.

1. Reporting

Under the existing requirements in 10 CFR 429.67(f)(2)(i) and (ii) for three-

phase, less than 65,000 Btu/h ACUACs and ACUHPs, manufacturers must report the seasonal energy efficiency ratio (''SEER'') in British thermal units per Watt-hour (''Btu/Wh''), the rated cooling capacity in Btu/h, and (for heat pumps) the heating seasonal performance factor (''HSPF'') in Btu/Wh.

Under the existing requirements in 10 CFR 429.67(f)(2)(iii) and (iv) for three-phase, less than 65,000 Btu/h VRF, manufacturers must report the SEER in Btu/Wh, rated cooling capacity in Btu/h, and (for heat pumps) the HSPF in Btu/Wh.

These requirements provide for certifying compliance with the standards applicable to three-phase, less than 65,000 Btu/h ACUACs and ACUHPs manufactured on or after January 1, 2017, and the standards applicable to three-phase, less than 65,000 Btu/h VRF manufactured on or after June 16, 2008. 88 FR 36368, 36389. DOE is proposing to update these reporting requirements to align with the amended standards adopted by the June 2023 3-Phase Final Rule that apply to three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF manufactured on or after January 1, 2025. 88 FR 36368, 36389. Additionally, DOE is proposing general certification requirements for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF. DOE discusses these proposed updates in the sections as follows.

a. Updating the Certification Requirements To Include the New Metrics, SEER2 and HSPF2

In the June 2023 3-Phase Final Rule, DOE amended energy conservation standards for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF to be in terms of the new cooling and heating metrics, SEER2 and HSPF2. *Id.* Accordingly, in this document, DOE is proposing to update the certification requirements at 10 CFR 429.67(f)(2) to include ratings in terms of SEER2 and HSPF2, which will become the required reporting metrics upon the compliance date of the amended standards. Manufacturers may use appendix F1 to certify compliance with the amended standards based on SEER2 and HSPF2 prior to the applicable compliance date for the amended energy conservation standards.

DOE seeks comment on its proposal to require the reporting of new metrics, such as SEER2 and HSPF2.

b. Aligning Basic Model Number and Individual Model Number(s) Reporting Requirements With Single-Phase Products

DOE proposes to include additional instructions regarding the basic model number and individual model number(s) required to be reported under 10 CFR 429.12(b)(6); this proposal is consistent with the requirement for single-phase products and represents readily available information to the manufacturer regarding the requirements for three-phase equipment.

Specifically, DOE would require in new subparagraph 10 CFR 429.67(f)(4) that the basic model number and individual model number(s) reported under 10 CFR 429.12(b)(6) consist of the following:

Equipment type	Basic model number	Individual model number(s)		
		1	2	3
Single-Package (including Space-Constrained).	Number unique to the basic model.	Package	N/A	N/A.
Single-Split System (including Space-Constrained and SDHV).	Number unique to the basic model.	Outdoor Unit	Indoor Unit	If applicable—Air Mover (could be same as indoor unit if fan is part of indoor unit model number).
Multi-Split, Multi-Circuit, and Multi-Head Mini-Split System (including Space-Constrained and SDHV).	Number unique to the basic model.	Outdoor Unit	When certifying a basic model based on tested combination(s): * * * When certifying an individual combination: Each indoor units paired with the outdoor unit.	If applicable—When certifying a basic model based on tested combination(s): * * *. When certifying an individual combination: Each air movers paired with the outdoor unit.
Outdoor Unit with No Match	Number unique to the basic model.	Outdoor Unit	N/A	N/A.

c. Outdoor Units With No Match

For three-phase, less than 65,000 Btu/h ACUACs and ACUHPs with outdoor units having no matching indoor component, DOE proposes requiring that in addition to any supplemental testing instructions used to satisfy the existing requirement in 10 CFR 429.67(f)(3), supplemental testing instructions also include any additional testing and testing set up instructions necessary to operate the basic model under the required conditions specified by the test procedure. Specifically, manufacturers must provide information regarding the following characteristics of the indoor coil: the face area, the coil depth in the direction of airflow, the fin density (fins per inch), the fin material, the fin style, the tube diameter, the tube material, and the numbers of tubes high and deep. This proposed requirement would be consistent with the 10 CFR 429.16 requirement for single-phase products, as well as with the test requirements in the 2019 edition of American Society of Heating, Refrigerating and Air-Conditioning Engineers (''ASHRAE'') Standard 90.1 ''*Energy Standard for Buildings Except Low-Rise Residential Buildings*'' (''ASHRAE 90.1–2019''), which, in turn, references ANSI/AHRI 210/240, ''*2023 Standard for Performance Rating of Unitary Air-conditioning & Air-source Heat Pump Equipment*'' (''AHRI 210/240–2023''). Therefore, this information should be readily available to manufacturers and will not add manufacturer burden.

d. Sampling Corrections

Currently, DOE's sampling provisions for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF state that any represented value of cooling capacity and heating capacity must each be a self-declared value that is less than or equal to the lower of the mean of the sample, or the lower 90 percent confidence limit of the true mean (''LCL'') divided by 0.95. 10 CFR 429.67(c)(2)(ii)(A)(2). The sampling provisions also state that the LCL should be calculated using the Student's t-Distribution Values for a 90 percent one-tailed confidence interval with n-1 degrees of freedom from appendix D to subpart B of part 429, where ''n'' is the number of samples. *Id.* However, the appendix containing Student's t-Distribution Values has moved to appendix A to subpart B of part 429 (''appendix A''). To correct this discrepancy, DOE is proposing to revise 10 CFR 429.67(c)(2)(ii)(A)(2) to specify that the LCL should be calculated using

the Student's t-Distribution Values for a 90 percent one-tailed confidence interval outlined in appendix A.

DOE seeks comment on its proposal to correct the sampling provisions for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF to reference appendix A.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align the three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF certification reporting requirements with the amended standards adopted by the June 2023 3-Phase Final Rule that apply to products manufactured on or after January 1, 2025. 88 FR 36368.

For three-phase, less than 65,000 Btu/h ACUACs and three-phase, less than 65,000 Btu/h VRF air conditioners, manufacturers currently report SEER in Btu/Wh and rated cooling capacity in Btu/h, but would report SEER2 in Btu/Wh in lieu of SEER to conform with the amended standards. For three-phase, less than 65,000 Btu/h ACUHPs and three-phase, less than 65,000 Btu/h VRF heat pumps, manufacturers currently report SEER in Btu/Wh, HSPF in Btu/Wh, and rated cooling capacity in Btu/h, but would be required to report SEER2 in Btu/Wh and HSPF2 in Btu/Wh in lieu of SEER and HSPF to conform with the amended standards.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF manufacturers are doing currently.

DOE requests comment on the certification reporting costs of the amendments proposed for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF.

K. Commercial Water Heating Equipment

DOE is proposing to amend the reporting requirements for commercial water heating equipment. EPCA prescribes energy conservation standards for several classes of CWH equipment manufactured on or after January 1, 1994. (42 U.S.C. 6313(a)(5)) DOE codified these standards in its regulations for CWH equipment at 10 CFR 431.110. However, when codifying these standards from EPCA, DOE inadvertently omitted the standards put in place by EPCA for electric instantaneous water heaters, which are instantaneous water heaters with a rated input both greater than 12 kW and not less than 4,000 Btu/h per gallon of stored water (*see* 10 CFR 431.102). Therefore, in a NOPR published on May 19, 2022 (''May 2022 CWH NOPR''), DOE proposed to codify these standards in its regulations at 10 CFR 431.110. 87 FR 30610, 30622.

DOE is proposing to establish reporting requirements for commercial electric instantaneous water heaters (except for residential-duty commercial electric instantaneous water heaters for which certification is already addressed in 10 CFR 429.44), consistent with the May 2022 CWH NOPR.

Additionally, DOE is proposing to add reporting requirements for commercial electric storage water heaters to ensure that the input rating of all certified models exceeds the 12 kW threshold that is part of the definition of electric storage water heaters at 10 CFR 431.102.

1. Reporting

Under the existing requirements in 10 CFR 429.44, manufacturer certification reports for commercial water heating equipment are not required to include information about electric instantaneous water heaters. 10 CFR 429.44(c)(2).

Therefore, for commercial electric instantaneous water heaters of all storage volumes (except for residential-duty commercial electric instantaneous water heaters), DOE is proposing to add certification requirements for thermal efficiency, storage volume, rated input, and whether the storage volume is determined using a weight-based test (in accordance with 10 CFR 431.106) or the calculation-based method (in accordance with 10 CFR 429.72(e), as discussed in the following paragraph). For electric instantaneous water heaters with storage volume greater than or equal to 10 gallons (and thus subject to a standby loss standard), DOE is also proposing to require that the following information be certified to ensure compliance with standby loss standards and to enable DOE to understand how the standby test was conducted for each basic model: (1) standby loss, (2) whether the water heater initiates heating element operation based on a temperature-controlled call for heating that is internal to the water heater, (3) whether the water heater includes an integral pump purge functionality, and (4) the default duration of the pump off delay (for models equipped with integral pump purge).

Similarly, DOE is proposing to allow use of a calculation-based method for determining the storage volume of electric instantaneous water heaters that is the same as the method for gas-fired and oil-fired instantaneous water heaters and hot water supply boilers found at 10 CFR 429.72(e). Furthermore, DOE is proposing to clarify that the method for calculating volume for instantaneous water heaters found at 10 CFR 429.72(e) does not apply to storage-type instantaneous water heaters.

Finally, for commercial electric storage water heaters, DOE is proposing to add a certification requirement for rated input to ensure that the input rating of all certified models exceeds the 12 kW threshold that is part of the definition of electric storage water heaters at 10 CFR 431.102. DOE proposes that manufacturers would be required to comply with the certification requirement beginning on the date of the next annual filing of certification reports required for CWH equipment following the publication of a final rule.[17]

DOE seeks comment on its proposal to require the reporting of thermal efficiency, storage volume, rated input, and whether the storage volume is determined using a weight-based test or the calculation-based method for commercial electric instantaneous water heaters of all storage volumes (except for residential-duty commercial electric instantaneous water heaters). DOE also seeks comment on its proposal to require the reporting of standby loss, whether the water heater initiates heating element operation based on a temperature-controlled call for heating that is internal to the water heater, whether the water heater includes an integral pump purge functionality, and the default duration of the pump off delay (for models equipped with integral pump purge) for electric instantaneous water heaters with storage volume greater than or equal to 10 gallons. Additionally, DOE seeks comment on its proposed calculation-based method for determining storage volume of electric instantaneous water heaters.

DOE seeks comment on its proposal to add a requirement for the reporting of rated input for commercial electric storage water heaters.

[17] The annual certification report filings for commercial water heating equipment are due on May 1. *See* 10 CFR 429.12.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align the certification reporting requirements for commercial electric instantaneous water heaters (except for residential-duty commercial electric instantaneous water heaters) with the energy conservation standards for such equipment as required by EPCA, and as proposed to be codified at 10 CFR 431.110 by the May 2022 CWH NOPR.

Manufacturers of commercial electric instantaneous water heaters (except for residential-duty commercial electric instantaneous water heaters) do not currently report any information about the performance or characteristics of such equipment, but would be required to report thermal efficiency, storage volume, rated input, and whether the storage volume is determined using a weight-based test (in accordance with 10 CFR 431.106) or the calculation-based method (in accordance with 10 CFR 429.72(e)).

Additionally, for electric instantaneous water heaters with storage volume greater than or equal to 10 gallons (and thus subject to a standby loss standard), manufacturers would also be required to report standby loss, whether the water heater initiates heating element operation based on a temperature-controlled call for heating that is internal to the water heater, whether the water heater includes an integral pump purge functionality, and the default duration of the pump off delay (for models equipped with integral pump purge).

Any manufacturer of commercial electric instantaneous water heaters would be required to begin submitting certification reports. Costs associated with the proposed updates to reporting requirements are discussed in section IV.C of this document.

In this NOPR, DOE also proposes to amend the certification reporting requirements for commercial electric storage water heaters to require manufacturers to report rated input.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers of commercial electric storage water heaters because they are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what commercial electric storage water heaters manufacturers are currently doing today.

DOE requests comment on the certification reporting costs of the amendments proposed for commercial electric instantaneous water heaters and commercial electric storage water heaters.

L. Automatic Commercial Ice Makers

DOE is proposing to amend the reporting requirements for ACIMs, which are factory-made assemblies (not necessarily shipped in 1 package) that (1) consist of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and (2) may include means for storing ice, dispensing ice, or storing and dispensing ice. 10 CFR 431.132. In the November 1, 2022 Automatic Commercial Ice Maker Test Procedure Final Rule (''November 2022 ACIM Final Rule''), DOE replaced the terms ''maximum energy use'' and ''maximum condenser water use'' with ''energy use'' and ''condenser water use,'' respectively, for ACIMs. 87 FR 65856, 56892. Consistent with that rulemaking, DOE is proposing amendments to the reporting requirements for ACIMs.

1. Reporting

Under the existing requirements in 10 CFR 429.45, manufacturers must report maximum energy use in kilowatt hours (''kWh'') per 100 pounds of ice, maximum condenser water use in gallons per 100 pounds of ice, harvest rate in pounds of ice per 24 hours, type of cooling, and equipment type. 10 CFR 429.45(b)(2). These requirements provide for certifying compliance with the standards applicable to ACIMs manufactured on or after January 28, 2018. 10 CFR 431.136(c) and (d). DOE is proposing to update these requirements and align the reporting requirements with the November 2022 ACIM Final Rule and proposing general certification requirements for ACIMs. DOE discusses these proposed updates in the sections as follows.

a. Energy and Water Condenser Use

For ACIMs, the current reporting requirements include maximum energy use in kWh per 100 pounds of ice and maximum condenser water use in gallons per 100 pounds of ice. 10 CFR 429.45(b)(2). In the November 2022 ACIM Final Rule, DOE determined that the reference to ''maximum energy use'' and ''maximum condenser water use'' in 10 CFR 429.45 could be misinterpreted to refer to the energy and water conservation standard levels for that basic model (*i.e.,* the maximum allowable energy and maximum allowable condenser water use), as opposed to the tested performance. 87 FR 65856, 65891. Therefore, in that same rule, for consistency and clarity, DOE replaced the term ''maximum energy use'' with the term ''energy use'' and the term ''maximum condenser water use'' with the term ''condenser water use.'' *Id.* at 87 FR 65892. In addition, values of both energy and condenser water consumption are relevant for ACIMs. *Id.* at 87 FR 65891. As such, DOE modified the language at 10 CFR 429.45 to specify expressly that the sampling plan at 10 CFR 429.45(a)(2)(i) applies both to measures of energy and condenser water use for which consumers would favor lower values. *Id.* at 87 FR 65892.

Similarly, 10 CFR 431.132 included a definition for the term ''maximum condenser water use.'' This language may also be misinterpreted to refer to the condenser water conservation standard level for a basic model as opposed to the tested condenser water use. Therefore, in the November 2022 ACIM Final Rule, DOE modified the term and definition of ''maximum condenser water use'' to instead refer to the term ''condenser water use.'' *Id.*

In the November 2022 ACIM Final Rule, DOE did not revise the reporting requirements in 10 CFR 429.45 to remove the term ''maximum'' and align the requirements with the newly adopted definitions for ''energy use'' and ''condenser water use.'' *Id.* at 87 FR 65897. As a result, DOE is proposing to update the reporting requirements to specify ''energy use'' and ''condenser water use'' in this document.

DOE seeks comment on its proposal to align ACIM reporting requirement terminology with the amended terms.

b. Rounding Requirements

DOE currently requires test results for ACIMs to be rounded, as outlined in the ACIMs test procedure. 10 CFR 431.134(g). However, the certification requirements in 10 CFR 429.45 do not specify how values calculated in accordance with 10 CFR 429.45(a) would be rounded for reporting per 10 CFR 429.45(b). To ensure consistency among ACIM certification reports, DOE proposes that any reported values be rounded consistent with the rounding requirements for individual test results. Specifically, DOE proposes to require that reported values be rounded as follows: energy use to the nearest 0.01 kWh/100 lb, condenser water use to the nearest gal/100 lb, and harvest rate to the nearest 1 lb/24 h (for ACIMs with harvest rates greater than 50 lb/24 h) or to the nearest 0.1 lb/24 h (for ACIMs with harvest rates less than or equal to 50 lb/24 h).

DOE seeks comment on its proposal to establish rounding requirements for ACIMs.

c. Sampling Corrections

Currently, DOE's sampling provisions for ACIMs state that any represented value of energy use, condenser water use, or other measure of consumption of a basic model for which consumers would favor lower values shall be greater than or equal to the higher of the mean of the sample, or the upper 95 percent confidence limit of the true mean (''UCL'') divided by 1.10. 10 CFR 429.45(a)(2). The sampling provisions also state that the UCL should be calculated using the Student's t-Distribution Values for Certification Testing for a 95 percent two-tailed confidence interval with n-1 degrees of freedom from appendix A, where ''n'' is the number of samples. *Id.* However, appendix A outlines Student's t-Distribution Values that are based on a one-tailed confidence interval, rather than the two-tailed confidence interval specified in 10 CFR 429.45(a)(2)(ii). To correct this discrepancy, DOE is proposing to revise 10 CFR 429.45(a)(2)(ii) to specify that the UCL should be calculated using the Student's t-Distribution Values for Certification Testing for a 95 percent one-tailed confidence interval outlined in appendix A.

DOE seeks comment on its proposal to correct the sampling provisions for ACIMs.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align ACIM certification reporting requirements with the amended terms adopted in the November 2022 ACIM Final Rule. For ACIMs, manufacturers currently report maximum energy use and maximum condenser water and under the proposed amended requirements would report energy use and condenser water use, which are substantially similar to the previous requirement.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of ACIMs are already submitting certification reports to DOE containing these values and should have readily available the information that DOE is proposing to collect as part of this proposed rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what ACIM manufacturers are doing currently.

DOE requests comment on the certification reporting costs of the amendments proposed for ACIMs.

M. Walk-In Coolers and Freezers

DOE is proposing to amend the reporting requirements for walk-in coolers and walk-in freezers (''walk-ins''), which are enclosed storage spaces refrigerated to temperatures, respectively, above and at or below 32 °F that can be walked into and have a total chilled storage area of less than 3,000 square feet. The terms ''walk-in cooler'' and ''walk-in freezer'' do not include products designed and marketed exclusively for medical, scientific, or research purposes. 10 CFR 431.302 In the test procedure final rule published on May 4, 2023 (''May 2023 Walk-ins TP Final Rule''), DOE amended the test procedure provisions for walk-ins. 88 FR 28780. Consistent with the May 2023 Walk-ins TP Final Rule, DOE is proposing amendments to the reporting requirements in this NOPR.

1. Reporting

Under the existing requirements in 10 CFR 429.53, manufacturers must report the following public information:

(1) For all walk-in doors: the door type, R-value of the door insulation, a declaration that the manufacturer has incorporated the applicable design requirements, door energy consumption, and rated surface area in square feet. 10 CFR 429.53(b)(2)(i) and (b)(3)(i).

(2) For walk-in doors with transparent reach-in doors and windows, the glass type of the doors and windows (*e.g.,* double-pane with heat reflective treatment, triple-pane glass with gas fill), and the power draw of the antisweat heater in watts per square foot of door opening. 10 CFR 429.53 (b)(i).

(3) For walk-in panels: the insulation R-value. 10 CFR 429.53(b)(ii).

(4) For walk-in refrigeration systems: the installed motor's function purpose (*i.e.,* evaporator fan motor or condenser fan motor), its rated horsepower, a declaration that the manufacturer has incorporated the applicable walk-in-specific design requirements into the motor, annual walk-in energy factor (''AWEF''), net capacity, the configuration tested for certification (*e.g.,* condensing unit only, unit cooler only, single-packaged dedicated system, or matched pair), and if an indoor dedicated condensing unit is also certified as an outdoor dedicated condensing unit (and, if so, the basic model number for the outdoor dedicated condensing unit). 10 CFR 429.53(b)(2)(iii), (b)(3)(ii), (b)(5).

Under the existing requirements in 10 CFR 429.53, manufacturers must report the following non-public information for all walk-in doors: (1) rated power of each light, heater wire, and/or other electricity consuming device; and (2) whether such device(s) has/have a timer, control system, or other demand-based control that reduces the device's power consumption. 10 CFR 429.53(b)(4)(i).

These requirements provide for certifying compliance with the standards applicable to walk-in doors, panels, and medium temperature dedicated condensing units (including medium temperature single-packaged dedicated systems and matched pairs) manufactured on or after June 5, 2017 and with the standards applicable to walk-in low temperature dedicated condensing units (including low temperature single-packaged dedicated systems and matched pairs), low temperature unit coolers, and medium temperature unit coolers manufactured on or after July 10, 2020. DOE is proposing to update these requirements and align the reporting requirements with the May 2023 Walk-ins TP Final Rule. DOE discusses these proposed updates in the sections as follows.

a. Combining the Publicly Required Reporting Requirements in 10 CFR 429.53(b)(2), 429.53 (b)(3), and 429.53(b)(5)

The current reporting requirements at 10 CFR 429.53(b) specify public reporting requirements in three paragraphs—(b)(2), (b)(3), and (b)(5)—based on whether the reporting requirement was submitted before or after June 5, 2017. Given this date has passed, DOE is proposing to combine the public product-specific reporting requirements at 10 CFR 429.53(b)(2) and move the non-public product-specific reporting requirements from 10 CFR 429.53(b)(4) to 10 CFR 429.53(b)(3).

b. CO_2 Systems

DOE has granted waivers to Heat Transfer Products Group, Hussmann, KeepRite, and RefPlus for an alternate test procedure for specific unit cooler basic models that utilize CO_2 as a refrigerant.[18] The alternate test procedure provided in these waivers modifies the test condition values to reflect typical operating conditions for a transcritical[19] CO_2 booster system.

[18] HTPG Decision and Order, 86 FR 14887 (Mar. 19, 2021); Hussmann Decision and Order, 86 FR 24606 (May 7, 2021); KeepRite Decision and Order, 86 FR 24603 (May 7, 2021); RefPlus Interim Waiver, 86 FR 43633 (Aug. 10, 2021).

[19] CO_2 refrigeration systems are transcritical because the high-temperature refrigerant that is

Specifically, the waiver test procedures require that CO_2 unit cooler testing is conducted at a liquid inlet saturation temperature of 38 °F and a liquid inlet subcooling temperature of 5 °F.

In the May 2023 Walk-ins TP Final Rule, DOE amended appendix C to include the alternate test conditions specified in the waivers. DOE also adopted these requirements into the new appendix C1. 88 FR 28780, 28809. Additionally, in the May 2023 Walk-ins TP Final Rule, DOE defined a ''CO_2 unit cooler'' as ''a unit cooler that includes a nameplate listing only CO_2 as an approved refrigerant''. 88 FR 28780, 28790.

Accordingly, DOE proposes to amend the public reporting requirements at 10 CFR 429.53(b)(2)(iii) to require that manufacturers report whether a given basic model meets the definition of a CO_2 unit cooler as defined in the May 2023 Walk-ins TP Final Rule. DOE proposes that manufacturers would be required to comply with the proposed reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this rule, if finalized.[20]

DOE seeks comment on its proposal to require the reporting of whether a basic model meets the definition of a CO_2 unit cooler.

c. Detachable Single-Packaged Dedicated Systems and Attached Split System

In the May 2023 Walk-ins TP Final Rule, DOE defined a ''detachable single-packaged dedicated system'' as a system consisting of a dedicated condensing unit and an insulated evaporator section in which the evaporator section is designed to be installed external to the walk-in enclosure and circulating air through the enclosure wall, and the condensing unit is designed to be installed either attached to the evaporator section or mounted remotely with a set of refrigerant lines connecting the two components. 88 FR 28780, 28790. Since detachable single-packaged dedicated systems have thermal losses similar to those for single-packaged dedicated systems, DOE adopted the air enthalpy test procedure for single-packaged dedicated systems in the May 2023 Walk-ins TP Final Rule. 88 FR 28780, 28815–28816.

Additionally, DOE defined an ''attached split system'' in the May 2023 Walk-ins TP Final Rule as a matched pair refrigeration system that is designed to be installed with the evaporator entirely inside the walk-in enclosure and the condenser entirely outside the walk-in enclosure, where the evaporator and condenser are permanently connected with structural members extending through the walk-in wall. 88 FR 28780, 28790. DOE has confirmed through testing that these systems still experience some heat leakage when compared to traditionally installed systems that have the dedicated condensing unit and the unit cooler in separate housings. This heat leakage has not been fully studied, however, so in the May 2023 Walk-ins TP Final Rule, DOE specified that these systems should be tested as a matched pair using refrigerant enthalpy methods. 88 FR 28780, 28816.

Although both detachable single-packaged dedicated systems and attached split systems would be considered a ''single-packaged dedicated system,'' the two would be tested differently. Some of the previously discussed test procedure waivers specify basic models that meet the definition of a detachable single-packaged dedicated system or an attached split system. To ensure appropriate testing and consistent reporting, it is important that these units be identified during certification.

Accordingly, DOE proposes to amend the public reporting requirements at 10 CFR 429.53(b)(2)(iii) to require that manufacturers report whether a given basic model meets the definition of a ''detachable single-packaged dedicated system'' or an ''attached split system'' as defined in the May 2023 Walk-ins TP Final Rule. DOE proposes that manufacturers would be required to comply with the proposed reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this rule, if finalized.

DOE seeks comment on its proposal to require the reporting of whether a basic model meets the definition of a detachable single-packaged dedicated system or an attached split system.

d. Head Pressure Control

In the May 2023 Walk-ins TP Final Rule, DOE adopted refrigerant charging provisions for walk-in dedicated condensing systems that use valves to ''flood'' the condenser with liquid refrigerant to maintain sufficiently high condensing temperature under cold air temperatures. 88 FR 28780, 28804–28806. Specifically, DOE noted that charging in the ''C'' test condition rather than the ''A'' test condition is appropriate for dedicated condensing systems (dedicated condensing units, matched systems, and single-packaged dedicated systems) that use a flooded condenser design. *Id.* However, for dedicated condensing systems that use fan controls to maintain condensing temperature for low ambient operating conditions, the test procedure specifies charging at the ''A'' test condition. 88 FR 28780, 28804–28806.

Accordingly, DOE proposes to amend the non-public reporting requirements at 10 CFR 429.53(b)(3)(ii)[21] to require that manufacturers report whether a given dedicated condensing system basic model is sold with flooded head pressure controls for maintaining condensing temperature at low ambient temperatures. DOE proposes that manufacturers would be required to comply with the proposed reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this rule, if finalized.

DOE seeks comment on its proposal to require the reporting of whether a dedicated condensing system basic model includes flooded head pressure controls.

e. Compressor Break-In

Although the DOE test procedure for walk-in refrigeration systems does not require a compressor ''break-in'' period, DOE recognizes that walk-in refrigeration manufacturers may routinely break-in the refrigeration system compressor for some time prior to conducting testing. This break-in period can reduce variation in compressor performance.

In the June 8, 2016, central air conditioners and heat pumps test procedure final rule, DOE noted that the most significant improvements in both compressor performance and reduction in variation among compressor models occur during roughly the first 20 hours of run time. 81 FR 36992, 37034. Ultimately, DOE adopted the provision to limit the optional break-in period to 20 hours to achieve the most uniform compressor performance while limiting test burden. *Id.* DOE additionally included provisions for manufacturers to have the option to report the use of a break-in period and its duration as

cooled by ambient air is in a supercritical state, above the 87.8 °F critical point temperature, above which the refrigerant cannot exist as separate vapor and liquid phases.

[20] The annual certification report filings for walk-ins are due no later than August 1. *See* 10 CFR 429.12, Table 1 to paragraph (d).

[21] Note that currently 10 CFR 429.53(b)(3) specifies public reporting requirements. In this NOPR, DOE is proposing to revise 10 CFR 429.53(b) such that paragraph (b)(2) specifies the public reporting requirements and paragraph (b)(3) specifies non-public reporting requirements.

part of the test data underlying their product certifications, the use of the same break-in period specified in product certifications for testing conducted by DOE, and the use of the 20 hours break-in period for products certified using an alternative efficiency determination method (''AEDM''). 81 FR 36992, 37033.

Other DOE-regulated equipment, such as dedicated outdoor air systems (*see* appendix B to subpart F of 10 CFR part 431 and discussion at 87 FR 45164, 45177–45178), single package vertical air conditioners and heat pumps (''SPVUs'') (*see* section I of subpart F to 10 CFR part 431) and air-cooled unitary air conditions and heat pumps (''CUACs'') (*see* 10 CFR 431.96) include required or optional provisions for compressor break-in either as part of the test procedure or as a certification option, so that any potential enforcement testing uses conditions similar to those used for rating a given unit. Whether required or optional, break-in duration is limited to a maximum of 20 hours for dedicated outdoor air supply units, SPVUs, and CUACs.

Accordingly, DOE proposes to amend the non-public reporting requirements at 10 CFR 429.53(b)(3)(ii) [22] to provide an option for manufacturers to report the compressor break-in period, in hours, used to obtain a basic model's certified rating; however, the break-in duration may not exceed 20 hours in length. DOE proposes that manufacturers would be required to comply with the proposed reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this rule, if finalized.

DOE seeks comment on its proposal to amend the reporting requirements and provide an option for manufactures to report compressor break-in.

f. Supplemental Testing Instructions

As discussed previously, DOE requires manufacturers of covered commercial HVAC equipment types to submit supplemental information regarding additional testing instructions, if applicable, and they must also specify which, if any, special features were included to rate a basic model. DOE also requires supplemental testing instructions from manufacturers of commercial warm air furnaces (see 10 CFR 429.41(b)(4)), commercial refrigeration equipment (*see* 10 CFR 429.42(b)(4)), and commercial water heating equipment (*see* 10 CFR 429.44(c)(4)). The supplemental information submitted in PDF format provides information to allow for third-party laboratories to complete a valid test according to the DOE test procedure.

Consistent with its requirements for other commercial equipment, DOE proposes to require that, if such information would be needed for a third party to independently run a valid test, manufacturers must submit supplemental testing instructions at the time each basic model is certified. Supplemental testing instructions for walk-ins might include (but are not limited to) specific charging instructions, control of fan cycling at specific test conditions, and type of expansion valve. Consistent with the supplemental testing instructions DOE has established for other commercial equipment, DOE notes that any supplemental information for testing walk-ins would need to be consistent with manufacturer installation instructions associated with the equipment under test. *See* section 3.2.6 of appendix C to subpart R of 10 CFR part 431 and section 3.5.2.4 of appendix C1 to subpart R of 10 CFR part 431. Prior to testing any walk-in refrigeration system basic model under its enforcement provisions, DOE would determine if supplemental testing instructions were included with certification of the basic model. If supplemental testing instructions were included with certification, DOE would review these instructions and compare them to the manufacturer's installation instructions. Once DOE has determined that the supplemental instructions are consistent with the manufacturer's installation instructions, DOE would instruct the third-party test lab to incorporate the supplemental testing instructions into its test plan.

DOE notes that manufacturers would need to provide the complete name of the PDF containing the supplemental testing instructions as part of the certification report. If the manufacturer changes the supplemental testing instructions and as a result changes the file name, then the manufacturer must update the certification report.

DOE proposes to require that, if necessary to run a valid test, manufacturers must submit supplemental testing instructions at the time each basic model is certified. DOE proposes that manufacturers would be required to comply with the proposed reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this rule, if finalized.

DOE seeks comment on its proposal to require, if necessary to run a valid test, supplemental testing information as a PDF file at the time of certification.

g. Anti-Sweat Heater Wire With Controls

For walk-ins with transparent reach-in doors, EPCA prescribes specific ASH-related requirements: (1) walk-ins without anti-sweat heater controls must have a heater power draw of no more than 7.1 or 3.0 watts per square foot of door opening for freezers and coolers, respectively; (2) walk-ins with anti-sweat heater controls must either have a heater power draw of no more than 7.1 or 3.0 watts per square foot of door opening for freezers and coolers, respectively; or (3) the anti-sweat heater controls must reduce the energy use of the heater in a quantity corresponding to the relative humidity of the air outside the door or to the condensation on the inner glass pane. *See* 42 U.S.C. 6313(f)(3)(C)–(D). These requirements are also codified at 10 CFR 431.306(b)(3)–(4).

The current test procedure assigns percent time off (''PTO'') values to various walk-in door components, including anti-sweat heaters, to reflect the hours in a day that an electricity-consuming device operates at its full rated or certified power. For walk-in cooler doors with ASH controls, the PTO value is 75 percent and for walk-in freezer doors with ASH controls, the PTO value is 50 percent. For doors without ASH controls, the PTO is 0 percent. The test procedure does not distinguish between types of ASH controls, just the presence of them.

DOE recognizes that walk-in coolers and freezers may be installed in a variety of environments, including different geographical climate zones, different indoor building installations, and even outdoor installations. Thus, walk-ins may experience a wide variety of ambient conditions. Consumers looking to purchase walk-in doors with ASH controls may benefit from publicly available information on the conditions at which the ASH is activated based on any controls provided as part of the door.

Additionally, during enforcement testing, DOE calculates the door's energy consumption using the input power listed on the nameplate of each electricity-consuming device shipped with the door. In the absence of a value listed on the nameplate, DOE uses the device's rated input power included in

[22] Note that currently 10 CFR 429.53(b)(3) specifies public reporting requirements. In this NOPR, DOE is proposing to revise 10 CFR 429.53(b) such that paragraph (b)(2) specifies public reporting requirements and paragraph (b)(3) specifies non-public reporting requirements.

the door's certification report. In the absence of either a nameplate or certified value, DOE may measure the input power for the purposes of calculating a door's energy consumption. 10 CFR 429.134(q)(4). Manufacturers are required to certify to DOE whether each electricity-consuming device, including ASH, has controls. 10 CFR 429.53(b)(4)(i). If there is no certification for the basic model, it can be difficult to discern whether the unit has controls without destroying the door.

For these reasons, DOE is proposing that manufacturers of doors with ASH controls certify the conditions (*i.e.,* temperature, humidity, etc.) at which the controls activate the ASH wire. DOE proposes that manufacturers would be required to comply with the proposed reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this rule, if finalized.

DOE seeks comment on its proposal to require the reporting of the conditions at which the controls activate the ASH wire for walk-in doors with ASH controls.

h. Door Conduction Load

DOE's test procedure for measuring walk-in door energy consumption accounts for thermal conduction through the door and the direct and indirect electricity use of any electrical components associated with the door. 10 CFR 431.304(b)(1)–(2) and 10 CFR part 431, subpart R, appendix A.

The direct and indirect electricity use of the electrical components associated with the door is based on the certified or nameplate input power values of each component, which are certified to DOE as non-public information. DOE does not, at present, require certification of the thermal conduction through the door.

In this NOPR, DOE is proposing to require certification of thermal conduction load through the door in Btu/h. This would be added to the non-public reporting requirements in 10 CFR 429.53(b)(3)(i). Manufacturers are already calculating conduction load as part of the current test procedure at sections 6.2.1 and 6.3.1 of appendix A to subpart R of 10 CFR part 431 for display doors and non-display doors, respectively. DOE notes that the conduction load is required for calculating the daily energy consumption. DOE has evaluated the theoretical thermal conduction for all walk-in doors certified to DOE and found in some cases that the calculated values may not be consistent with the values that would be expected based on the currently reported data (*i.e.,* wattage, presence of controls) for the door's electricity-consuming devices. To remedy this situation, DOE is proposing that walk-in door manufacturers certify thermal conduction load as non-public data, in addition to the requirements already listed in 10 CFR 429.53(b)(3)(i). DOE proposes that manufacturers would be required to comply with the proposed reporting requirement beginning on the next certification report annual filing date required for walk-in components following the publication of this rule, if finalized.

DOE requests comment on its proposed additional certification reporting requirements for walk-in doors and refrigeration systems.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align walk-in certification reporting requirements with the test procedure requirements applicable to walk-ins manufactured on and after October 31, 2023. For all walk-in doors, manufacturers currently report the door type, R-value of the door insulation, a declaration that the manufacturer has incorporated the applicable design requirements, door energy consumption, rated surface area, rated power of each light, heater wire, and/or other electricity-consuming device and whether such device(s) has a timer, control system, or other demand-based control that reduces the device's power consumption. For transparent reach-in display doors and windows, manufacturers must currently also report the glass type of the doors and windows), and the power draw of the ASH. Manufacturers would additionally report the conduction load through the door, whether the basic model uses self-regulating heater wire, and, if so, specify the temperature at which the wire engages if the proposed amendments are adopted.

For walk-in refrigeration systems, manufacturers currently report the installed motor's function purpose (*i.e.,* evaporator fan motor or condenser fan motor), its rated horsepower, a declaration that the manufacturer has incorporated the applicable walk-in-specific design requirements into the motor, AWEF, net capacity, the configuration tested for certification (*e.g.,* condensing unit only, unit cooler only, single-packaged dedicated system, or matched pair), and if an indoor dedicated condensing unit is also certified as an outdoor dedicated condensing unit (and, if so, the basic model number for the outdoor dedicated condensing unit). If the proposed amendments are adopted manufacturers would additionally report whether the basic model is designed for use with CO_2 as a refrigerant, whether a dedicated condensing system has flooded head pressure control, and whether a compressor break-in period was used, and if so, the duration of the break-in period. Additionally, manufacturers would be required to submit supplemental testing instructions in PDF format if these instructions are necessary to run a valid test. DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of walk-ins are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what walk-in manufacturers are currently doing today.

DOE requests comment on the certification reporting costs of the amendments proposed for walk-ins.

3. Labeling

If the Secretary has prescribed test procedures for any class of covered equipment, a labeling rule applicable to such class of covered equipment must be prescribed. *See* 42 U.S.C. 6315(a). EPCA, however, also sets out certain criteria that must be met prior to prescribing a given labeling rule. Specifically, to establish these requirements, DOE must determine that: (1) labeling in accordance with section 6315 is technologically and economically feasible with respect to any equipment class; (2) significant energy savings will likely result from such labeling; and (3) labeling in accordance with section 6315 is likely to assist consumers in making purchasing decisions. (*See* 42 U.S.C. 6315(h))

If these criteria are met, EPCA specifies certain aspects of equipment labeling that DOE must consider in any rulemaking establishing labeling requirements for covered equipment. At a minimum, such labels must include the energy efficiency of the affected equipment as tested under the prescribed DOE test procedure. The labeling provisions may also consider the addition of other requirements, including: (1) directions for the display of the label; (2) a requirement to display on the label additional information related to energy efficiency or energy consumption, which may include

instructions for maintenance and repair of the covered equipment, as necessary, to provide adequate information to purchasers; and (3) requirements that printed matter displayed or distributed with the equipment at the point of sale also include the information required to be placed on the label. (42 U.S.C. 6315(b) and 42 U.S.C. 6315(c))

DOE previously established labeling requirements for walk-in components, codified at 10 CFR 431.305, in a final rule published on December 28, 2016 (''December 2016 Walk-in Final Rule''). 81 FR 95758, 95802. For walk-in panels, DOE had initially proposed in the NOPR leading to the aforementioned final rule to include the date of manufacture on the nameplate of a panel. 81 FR 54925, 54942 (Aug. 17, 2016). At the time, DOE estimated the total cost of applying labels specifically to non-display doors and panels, which may include date of manufacture, to be less than 0.1 percent of an average manufacturer's annual revenue. *Id.* In consideration of stakeholder comments indicating that affixing a panel label with date of manufacture was not technologically feasible, in the December 2016 walk-in Final Rule, DOE did not finalize its proposal to require the date of manufacture on the nameplate. 81 FR 95758, 95802.

In this NOPR, DOE is again proposing to require that date of manufacture be affixed to each walk-in panel via the nameplate or via another method (*i.e.,* stamping) at 10 CFR 431.305(a)(1)(ii). DOE has found that date of manufacture is often included on the nameplate or stamped elsewhere on walk-in panels, indicating that it is not overly burdensome to include and is technologically feasible.

Additionally, In the May 2023 Walk-Ins TP Final Rule, DOE added test provisions for CO_2 unit coolers. 88 FR 28780,28809. To easily determine which walk-in units these test provisions apply to, DOE defined CO_2 unit coolers as ''unit coolers that includes a nameplate listing only CO_2 as an approved refrigerant''. 88 FR 28780, 28790. Based on walk-in units previously tested by DOE, DOE expects that most manufacturers are already including a refrigerant indication on the labels of walk-in unit coolers. Additionally, as discussed in the May 2023 Walk-ins TP Final Rule, manufacturers supported the finalized definition for CO_2 unit coolers, including the language regarding the nameplates. *Id.* As such, DOE has therefore tentatively concluded that it would not be burdensome for manufacturers to label unit coolers designed for use with CO_2 as a refrigerant. Additionally, DOE has consulted with the FTC, and they had no comments on the proposal. Therefore, in this NOPR, DOE is proposing that unit coolers designed to be used with CO_2 as a refrigerant include the statement ''Only CO_2 is approved as a refrigerant for this system'' on the unit nameplate.

DOE requests comment on its proposal to require that date of manufacture be included on a panel nameplate, including its tentative conclusion that this would be technologically feasible and would not be burdensome to include. DOE also requests comment on its proposal to require CO_2 unit coolers be labeled with the statement ''Only CO_2 is approved as a refrigerant for this system'', including its tentative conclusion that this would not be burdensome to include.

4. Labeling Costs and Impact

Labelling requirements for panels are codified at 10 CFR 431.305(a). Since manufacturers are already required to apply a permanent nameplate to walk-in panels, DOE is assuming that there would be no additional cost to the nameplate material or nameplate application if DOE were to finalize its proposal to include date of manufacturer on the panel nameplate. However, DOE recognizes that manufacturers may need to make changes to panel nameplates to include date of manufacture.

DOE is assuming that the date of manufacturer would be automatically etched or printed on each nameplate and that there would be a one-time cost for programming date of manufacturer into the nameplate printing software. DOE estimates that it would take an electrical engineer a maximum of 8 hours to configure the nameplate printing software. The current fully burdened wage for an electrical engineer is $69.97,[23] resulting in an estimated one-time cost per manufacturer of $560 to include date of manufacture on panel nameplates.

DOE is assuming that the statement ''Only CO_2 is approved as a refrigerant for this system'' would be automatically etched or printed on each nameplate and that there would be a one-time cost for programming date of manufacturer into the nameplate printing software. DOE estimates that it would take an electrical engineer a maximum of 8 hours to configure the nameplate printing software. The current fully burdened wage for an electrical engineer is $69.97,[24] resulting in an estimated one-time cost per manufacturer of $560 to this statement on CO_2 unit cooler nameplates for those manufacturers that would need to make this update to their nameplates. As previously noted, DOE expects that many manufacturers have already done so.

N. Commercial and Industrial Pumps

DOE is proposing to amend the reporting requirements for commercial and industrial pumps, which DOE defines as equipment designed to move liquids (which may include dissolved gases, free solids, and totally dissolved solids) by physical or mechanical action. A pump includes a bare pump and, if included by the manufacturer at the time of sale, mechanical equipment, driver, and controls. 10 CFR 431.462. DOE is proposing amendments to the reporting requirements for commercial and industrial pumps in this NOPR.

1. Reporting

Under the existing requirements in 10 CFR 429.59(b)(2) and (b)(4), manufacturers must report the following as determined according to the DOE test procedure at appendix A to subpart Y of 10 CFR part 431:

- For section III: the constant load pump energy index (''PEICL''), the nominal speed of rotation in revolutions per minute (''rpm''), pump total head in feet at BEP and nominal speed, volume per unit time (''flow rate'') in gallons per minute (''gpm'') at BEP and nominal speed, calculated driver power input at each load point corrected to nominal speed, in horsepower (''hp''), full impeller diameter in inches (''in''), and for radially split, multi-stage, vertical, in-line diffuser casing (''RSV'') pumps and submersible turbine (''ST'') pumps, the number of stages tested. 10 CFR 429.59(b)(2)(i).
- For section IV: all the above in addition to whether the PEICL is

[23] DOE estimated the hourly wage using data from BLS's ''Occupational Employment and Wages, May 2022'' publication. DOE used the ''Electrical Engineers'' mean hourly wage of $48.28 to estimate the hourly wage rate (*www.bls.gov/oes/current/oes172071.htm*). DOE then used BLS's ''Employer Costs for Employee Compensation—June 2022'' to estimate that wages and salary account for approximately 69 percent for private industry workers. (*www.bls.gov/news.release/pdf/ecec.pdf* last accessed on December 1, 2022). Therefore, DOE estimated a fully burdened labor rate of $69.97 ($48.28 ÷ 0.69 = $69.97).

[24] DOE estimated the hourly wage using data from BLS's ''Occupational Employment and Wages, May 2022'' publication. DOE used the ''Electrical Engineers'' mean hourly wage of $48.28 to estimate the hourly wage rate (*www.bls.gov/oes/current/oes172071.htm*). DOE then used BLS's ''Employer Costs for Employee Compensation—June 2022'' to estimate that wages and salary account for approximately 69 percent for private industry workers. (*www.bls.gov/news.release/pdf/ecec.pdf* last accessed on December 1, 2022). Therefore, DOE estimated a fully burdened labor rate of $69.97 ($48.28 ÷ 0.69 = $69.97).

calculated or tested. 10 CFR 429.59(b)(2)(ii).

○ For section V: variable load pump energy index (''PEIVL'') instead of PEICL, driver power input measured as the input power to the driver and controls at each load point corrected to nominal speed, in hp, and whether PEIVL is calculated or tested. 10 CFR 429.59(b)(2)(iii).

These requirements provide for certifying compliance with the standards for commercial and industrial pumps manufactured on or after January 27, 2020. Under the existing requirements in 10 CFR 429.59(b)(3), manufacturers have the option to report pump efficiency at BEP in percent and PER_{CL} (for constant load pumps) or pump efficiency at BEP in percent and PER_{VL} (for variable load pumps), as determined according to appendix A to subpart Y of 10 CFR part 431.

In this NOPR, DOE is proposing to require certification of pump efficiency at BEP in percent, PER_{CL}, and PER_{VL}—these metrics would be added to the existing reporting requirements in 10 CFR 429.59(b)(2). DOE is also proposing that manufacturers would be required to comply with the proposed reporting requirement beginning on the next certification report annual filing date required for commercial and industrial pumps following the publication of this rule, if finalized.

Pump efficiency at BEP, PER_{CL}, and PER_{VL} are required for calculating PEI_{CL} or $PEI_{VL.}$ Some manufacturers are already reporting pump efficiency at BEP, PER_{CL}, and/or PER_{VL}, and these metrics are already calculated in appendix A to subpart Y of 10 CFR part 431. This reporting requirement would standardize the information reported to DOE by different pump manufacturers. In addition, having these metrics available in DOE's compliance certification database would provide pump end users with greater insight into pump operation at part load conditions.

DOE seeks comment on its proposal to require certification of pump efficiency at BEP in percent, constant load pump energy rating (''PER_{CL}''), and variable load pump energy rating (''PER_{VL}'').

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to amend the reporting requirements for commercial and industrial pumps.

For commercial and industrial pumps subject to the test methods prescribed in section III of appendix A to subpart Y of 10 CFR part 431, manufacturers must currently report the following: (1) PEI_{CL}; (2) the nominal speed of rotation in rpm; (3) pump total head in feet at BEP and nominal speed; (4) volume per unit time (flow rate) in gpm at BEP and nominal speed; (5) calculated driver power input at each load point i, corrected to nominal speed in hp; (6) full impeller diameter in inches; and (6) for RSV and ST pumps, the number of stages tested. Manufacturers would additionally report the pump efficiency at BEP in percent and PER_{CL} for all pumps if the proposed amendments are adopted.

For pumps subject to the test methods prescribed in section IV or V of appendix A to subpart Y of 10 CFR part 431, manufacturers currently report the following: (1) PEI_{CL}; (2) the nominal speed of rotation in rpm; (3) pump total head in feet at BEP and nominal speed; (4) volume per unit time (flow rate) in gallons per minute at BEP and nominal speed; (5) driver power input at each load point i, corrected to nominal speed in hp; (6) full impeller diameter in inches; (7) whether the PEI_{CL} is calculated or tested; and (8) for RSV and ST pumps, the number of stages tested. Manufacturers would additionally report pump efficiency at BEP in percent and PER_{CL} for all pumps if the proposed amendments are adopted.

For pumps subject to the test methods prescribed in section VI or VII of appendix A to subpart Y of 10 CFR part 431, manufacturers currently report the following: (1) PEI_{VL}; (2) the nominal speed of rotation in rpm; (3) pump total head in feet at BEP and nominal speed; (4) volume per unit time (flow rate) in gpm at BEP and nominal speed; (5) driver power input (measured as the input power to the driver and controls) at each load point i, corrected to nominal speed in hp; (6) full impeller diameter in inches; (7) whether the PEI_{VL} is calculated or tested; and (8) for RSH and ST pumps, the number of stages tested. Manufacturers would additionally report pump efficiency at BEP in percent and PER_{VL} for all pumps if the proposed amendments are adopted.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of commercial and industrial pumps are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what commercial and industrial pumps manufacturers are currently doing today.

DOE requests comment on the certification reporting costs of the amendments proposed for commercial and industrial pumps.

O. Portable Air Conditioners

DOE is proposing to amend the reporting requirements for portable ACs, which DOE defines as a consumer product that consists of a portable encased assembly, other than a ''packaged terminal air conditioner,'' ''room air conditioner,'' or ''dehumidifier,'' that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. 10 CFR 430.2. In the portable AC test procedure final rule published on May 15, 2023 (''May 2023 Portable AC Final Rule''), DOE amended the test procedures for portable ACs at appendix CC to subpart B of 10 CFR part 430 (''appendix CC'') to incorporate a measure of variable-speed portable AC performance and make minor clarifying edits. 88 FR 31102. Consistent with that final rule, DOE is proposing amendments to the reporting requirements.

1. Reporting

The current reporting requirements for portable ACs at 10 CFR 429.62 include the following: (1) the combined energy efficiency ratio (''CEER'') in Btu/Wh); (2) the seasonally adjusted cooling capacity (''SACC'') in Btu/h; (3) the duct configuration (*i.e.,* single-duct, dual-duct, or ability to operate in both configurations); (4) presence of heating function; and (5) primary condensate removal feature (*i.e.,* auto-evaporation, gravity drain, removable internal collection bucket, or condensate pump). 10 CFR 429.62. These requirements provide for certifying compliance with the standards that will go into effect for single-duct and dual-duct portable ACs that are manufactured on or after January 10, 2025. DOE is proposing to update these requirements and align the reporting requirements with the recent test procedure amendments and is also proposing general certification requirements for portable ACs. DOE discusses these proposed updates in the sections as follows.

a. Duct-Configuration

DOE defines two portable AC configurations: single-duct and dual-duct. Single-duct portable ACs draw all the condenser inlet air from the conditioned space without the means of a duct and discharge the condenser outlet air outside the conditioned space through a single duct attached to an adjustable window bracket. Dual-duct portable ACs draw some or all the

condenser inlet air from outside the conditioned space through a duct attached to an adjustable window bracket, may draw additional condenser inlet air from the conditioned space, and discharge the condenser outlet air outside the conditioned space by means of a separate duct attached to an adjustable window bracket. *Id.*

The current test procedure for portable ACs, found in appendix CC, notes that if a portable AC is able to operate as both a single-duct and dual-duct portable AC as distributed in commerce by the manufacturer, it must be tested and rated for both duct configurations. Section 3.1.1 in appendix CC.

Similarly, in 10 CFR 429.62(a)(5), DOE states that single-duct and dual-duct portable ACs distributed in commerce by the manufacturer with multiple duct configuration options that meet DOE's definitions for single-duct portable AC and dual-duct portable AC, must be rated and certified under both applicable duct configurations.

Under the existing certification reporting requirements in 10 CFR 429.62(b)(2), manufacturers of portable ACs must report the following: (1) the CEER in Btu/Wh; (2) the SACC in Btu/h; (3) the duct configuration (*i.e.,* single-duct, dual-duct, or ability to operate in both configurations); (4) presence of heating function; and (5) primary condensate removal feature (*i.e.,* auto-evaporation, gravity drain, removable internal collection bucket, or condensate pump).

DOE is proposing to include clarifying amendments to these reporting requirements to specify that each certification report must include an indication of the duct configuration used for testing (*i.e.,* single-duct or dual-duct) and whether the certified model is distributed in commerce by the manufacturer with multiple duct configuration options that meet DOE's definitions for single-duct portable AC and dual-duct portable AC (*i.e.,* yes or no).

DOE requests comment on the clarifying amendments to 10 CFR 429.62(b)(2) to better represent the intent of the instruction in appendix CC and 10 CFR 429.62(a)(5).

b. Full-Load Seasonally Adjusted Cooling Capacity

In the May 2023 Portable AC Final Rule, DOE amended the appendix CC test procedures to include a new capacity metric for variable-speed portable ACs, full-load seasonally adjusted cooling capacity (''$SACC_{Full}$''), for purposes of representation and certification. 88 FR 31102, 31112–31114. Consistent with that final rule, DOE is proposing to amend the certification report requirements by proposing a new section, 10 CFR 429.62(b)(3), to require reporting whether a basic model is variable-speed, as defined in appendix CC, and if so, to report the $SACC_{Full}$, in Btu/h.

DOE seeks comment on requiring whether a basic model is variable-speed, and if so, to report the $SACC_{Full}$, in Btu/h.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align portable AC certification reporting requirements with the May 2023 Portable AC TP Final Rule requirements applicable to portable ACs manufactured on and after the June 14, 2023.

For variable-speed portable ACs tested in accordance with appendix CC as amended in the May 2023 Portable AC TP Final Rule, manufacturers currently report combined energy efficiency ratio, seasonally adjusted cooling capacity, the duct configuration, presence of heating function, and primary condensate removal feature, and would additionally report full-load seasonally adjusted cooling capacity if the proposed amendments are adopted.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers beyond those that were estimated in the January 2020 Portable ACs ECS Final Rule, which first established the reporting requirements. 85 FR 1378. This is because manufacturers of portable ACs should already be collecting the information required for the current certification requirements and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what was estimated in the January 2020 Portable ACs ECS Final Rule.

DOE requests comment on the certification reporting costs of the amendments proposed for portable ACs.

P. Compressors

DOE is proposing to amend the reporting requirements for compressors, which DOE defines as machines or apparatuses that convert different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher pressure values above atmospheric pressure and have a pressure ratio at full-load operating pressure greater than 1.3. 10 CFR 431.342.

1. Reporting

Under the existing requirements in 10 CFR 429.63(b), a certification report must include the following public product-specific information for all compressors: (1) full-load package isentropic efficiency or part-load package isentropic efficiency, as applicable (dimensionless); (2) full-load actual volume flow rate (in cubic feet per minute); (3) compressor motor nominal horsepower (in horsepower); (4) full-load operating pressure (in pounds per square inch, gauge); (5) maximum full-flow operating pressure (in pounds per square inch, gauge); and (6) pressure ratio at full-load operating pressure (dimensionless). 10 CFR 429.63(b)(i)–(vi).

In addition, for any ancillary equipment that is installed for test, but is not part of the compressor package as distributed in commerce (per the requirements of 10 CFR part 431, subpart T, appendix A, section I(B)(4)), a certification report must include the following public product-specific information: (1) a general description of the ancillary equipment, based on the list provided in the first column of Table 1 of 10 CFR part 431, subpart T, appendix A, section I(B)(4); (2) the manufacturer of the ancillary equipment; (3) the brand of the ancillary equipment (if different from the manufacturer); (4) the model number of the ancillary equipment; (5) the serial number of the ancillary equipment (if applicable); (6) input voltage (if applicable); (7) number of phases (if applicable); (8) input frequency (if applicable); (9) size of any connections (if applicable); and (10) type of any connections (if applicable). 10 CFR 429.63(b)(vii)(A)–(G). A certification report must also include installation instructions for the ancillary equipment, accompanied by photos that clearly illustrate the ancillary equipment, as installed on compressor package, in a PDF. 10 CFR 429.63(b)(vii)(H).

DOE notes that 10 CFR 429.12(a) states that basic models of covered products require annual filings on or before the dates provided in 10 CFR 429.12(d), but paragraph (d) does not specifically list an annual filing date for compressors. In light of this omission, DOE proposes to explicitly specify in 10 CFR 429.12(d) that compressors should be recertified annually on or before September 1. Because the energy conservation standards for compressors do not take effect until January 10, 2025, this annual reporting requirement would not be in effect until the

applicable energy conservation standards are in effect.

DOE seeks comment on the proposed annual filing date of September 1 for compressors.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes no changes to the reported information required for compressors when certifying compliance with the standards applicable to compressors manufactured on or after January 10, 2025. DOE only proposes to specify the annual date by which manufacturers must submit annual certification filings to DOE after the applicable standards take effect. DOE has tentatively determined that the proposed amendment would not impose additional costs for manufacturers because no amendments to the certification report contents are being proposed in this NOPR. DOE does not believe the revised reporting requirements would cause any appreciable change in reporting burden or hours as compared to what compressor manufacturers will begin doing prior to the January 10, 2025 compliance date.

DOE requests comment on the proposed annual filing date for compressors and any corresponding certification and reporting costs.

Q. Dedicated-Purpose Pool Pump Motors

DOE is proposing to establish reporting requirements for DPPPMs, which are electric motors that are single-phase or polyphase and are designed and/or marketed for use in dedicated-purpose pool pump (''DPPP'') applications, as defined in sections 1.2, 1.3, and 1.4 of UL 1004–10:2020. 10 CFR 431.483. In the NOPR published on June 21, 2022 (''June 2022 DPPPM NOPR''), DOE proposed to establish energy conservation standards for DPPPMs. 87 FR 37122. Consistent with that notice of proposed rulemaking, DOE is proposing amendments to the reporting requirements.

1. Reporting

There are currently no reporting requirements for DPPPMs. The June 2022 DPPPM NOPR proposed to establish new energy conservation standards for DPPPM. Therefore, DOE is proposing to align the reporting requirements with the standards and proposing general certification requirements for DPPPM. DOE discusses these proposed updates in the sections as follows.

a. Motor Total Horsepower, Full-Load Efficiency, and Design Requirements

In the June 2022 DPPPM NOPR, DOE proposed performance standards (*i.e.,* full load efficiency) and design requirements (*i.e.,* speed capability) based on DPPPM total horsepower (''THP''). 87 FR 37122, 37123–37124. DOE proposed that the standards, if adopted, would apply to all DPPPMs manufactured in, or imported into, the United States starting on the date 2 years (or 24 months) after the publication of the final rule for the proposed rulemaking.

Further, for DPPPMs greater than or equal to 0.5 THP, DOE proposed that DPPPMs with freeze protection controls be shipped with the freeze protection feature disabled, or with the following default, user-adjustable settings: (a) the default dry-bulb air temperature setting shall be no greater than 40 °F; (b) the default run time setting shall be no greater than 1 hour (before the temperature is rechecked); and (c) the default motor speed in freeze protection mode shall not be more than half of the maximum operating speed. 87 FR 37122, 37124. Table III.1 provides the proposed energy conservation standards.

TABLE III.1—JUNE 2022 DPPPM NOPR PROPOSED ENERGY CONSERVATION STANDARDS FOR DEDICATED PURPOSE POOL PUMP MOTORS

Motor total horsepower (THP)	Performance standard: full-load efficiency (%)	Design requirement: speed capability	Design requirement: freeze protection
THP < 0.5	69	None	None.
0.5 ≤ THP < 1.15		Variable speed control	Only for DPPP motors with freeze protection controls.
1.15 ≤ THP ≤ 5		Variable speed control	Only for DPPP motors with freeze protection controls.

As such, in this NOPR, DOE proposes to update the reporting requirements to include product-specific information that would be required to certify compliance with any newly established energy conservation standards. Accordingly, DOE proposes reporting the DPPPM THP, as the THP is required to determine whether the DPPPM would need to meet either a performance standard or design requirements. DOE proposes that the represented value of THP should be determined as required at 10 CFR 429.65(c)(1)(v).

For DPPPMs less than 0.5 THP, DOE proposes reporting the performance standard in terms of full load efficiency. DOE proposes using the test procedure in 10 CFR 431.484 to determine full-load efficiency, and to report the represented value of THP as required at 10 CFR 429.65(c)(1)(v).

For DPPPMs greater than or equal to 0.5 THP, DOE proposes reporting the design requirements as follows:

(1) A statement confirming that the DPPPM is variable speed (as defined at 10 CFR 431.483); and

(2) A statement regarding whether freeze protection is shipped enabled or disabled; for DPPPMs distributed in commerce with freeze protection controls enabled, DOE proposes reporting the default dry-bulb air temperature setting (in °F), default run time setting (in minutes), maximum operating speed (in revolutions per minute, or rpm), and default motor speed in freeze protection mode (in revolutions per minute, or rpm).

Regarding general certification requirements, DOE proposes that annual filing for DPPPM shall be submitted on or before September 1. Further, DOE also proposes that the requirements in 10 CFR 429.12 regarding certification apply to DPPPMs.

DOE seeks comment on the proposed reporting requirements for DPPPMs.

b. Rounding Requirements

DOE proposes to specify rounding requirements for values required to determine compliance with the proposed energy conservation standards. Specifically, DOE proposes that manufacturers round DPPPM THP to the nearest hundredth of THP, consistent with industry practice. Further, DOE proposes that

manufacturers round full load efficiency, expressed in percentage, to the nearest tenth of a percent. This is consistent with how the full load efficiency of an electric motor is expressed at 10 CFR 431.25 and 10 CFR 431.446, and these electric motors share test methods with DPPPMs. Finally, for DPPPM basic models with THPs greater than or equal to 0.5 THP and distributed in commerce with freeze protection controls enabled, DOE proposes to round the dry-bulb temperature setting (expressed in °F) run time setting (expressed in minutes), maximum operating speed (expressed in rpm), and default motor speed in freeze protection mode (expressed in rpm) to the nearest whole number. This is consistent with how dry-bulb temperature is expressed in 10 CFR 431.465(h)(1).

DOE seeks comment on the proposed rounding requirements for DPPPMs.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align DPPPM certification reporting requirements with the proposed energy conservation standard requirements applicable to DPPPMs manufactured starting on the date 2 years (24 months) after the date of final rule publication of the energy conservation standard in the **Federal Register**.

The addition of the proposed reporting requirements for DPPPMs would newly require manufacturers to report performance characteristics of these motors. For DPPPMs less than 0.5 THP, full-load efficiency would need to be reported in addition to THP, and for DPPPMs greater than or equal to 0.5 THP, freeze protection status and speed control capability would need to be reported in addition to THP. DOE has tentatively concluded that these proposed changes would impose additional cost to manufacturers and importers. The costs associated with these changes are described in further detail in section IV.C of this document.

DOE requests comment on the certification reporting costs of the proposed new reporting requirements for DPPPMs.

R. Air Cleaners

DOE is proposing to establish reporting requirements for air cleaners, which DOE defines as a product for improving indoor air quality, other than a central air conditioner, room air conditioner, portable air conditioner, dehumidifier, or furnace, that is an electrically-powered, self-contained, mechanically encased assembly that contains means to remove, destroy, or deactivate particulates, VOCs, and/or microorganisms from the air. It excludes products that operate solely by means of ultraviolet light without a fan for air circulation. 10 CFR 430.2. In a direct final rule published on April 11, 2023 (''April 2023 Air Cleaners DFR''), DOE established new energy conservation standards for air cleaners. 88 FR 21752. Consistent with that direct final rule, DOE is proposing to establish new reporting requirements for air cleaners.

1. Reporting

There are currently no reporting requirements for air cleaners. The April 2023 Air Cleaners DFR established new energy conservation standards for air cleaners. 88 FR 21752. In the April 2023 Air Cleaners DFR, DOE established energy conservation standards based on integrated energy factor (''IEF''), which is determined as the clean air delivery rate (''CADR'') [25] of an air cleaner expressed in terms of $PM_{2.5}$ [26] CADR divided by the annual energy consumption divided by the annual active mode hours. 88 FR 21752, 27153–21754. $PM_{2.5}$ CADR is calculated as the geometric mean of smoke CADR and dust CADR. 88 FR 21752, 21762.

Therefore, DOE is proposing to align the reporting requirements with the standards and proposing general certification requirements for air cleaners. DOE discusses these proposed updates in the following paragraphs.

DOE proposes to establish reporting requirements for air cleaners at 10 CFR 429.68(b) to include product-specific information that would be required to certify compliance with the newly established energy conservation standards. DOE proposes that parties must report the smoke CADR, dust CADR, and $PM_{2.5}$ CADR in cfm; annual energy consumption in kWh/yr; and, IEF in $PM_{2.5}$ CADR per watt. DOE is proposing reporting requirements for smoke CADR and dust CADR because these values are used to determine $PM_{2.5}$ CADR.

Additionally, in a test procedure final rule published on March 6, 2023 (March 2023 Air Cleaners TP Final Rule), DOE established requirements for determining pollen CADR and effective room size. 88 FR 14014, 14016. In the March 2023 Air Cleaners TP Final Rule, DOE noted that many air cleaners are marketed as providing pollen removal and the ENERGY STAR specification for air cleaners also requires reporting of pollen CADR. DOE stated that it is important that any representation related to an air cleaner's pollen CADR performance be made based on testing conducted in a repeatable and representative manner. 88 FR 14014, 14034. Accordingly, in the March 2023 Air Cleaners TP Final Rule, DOE referenced the AHAM AC–1–2020 standard to conduct a test to measure pollen CADR. 88 FR 14014, 14035. While DOE has not established any energy conservation standards for pollen, DOE is proposing to include a reporting requirement for pollen CADR in this NOPR to ensure that consumers have reliable information when making purchasing decisions.

Additionally, in the March 2023 Air Cleaners TP Final Rule, DOE established a metric for effective room size because room size would strongly impact the capacity of the air cleaner that would be required to clean the air in the desired room. 88 FR 14014, 14036 and 14038. While DOE has not established any standards pertaining to room size, DOE is proposing to include a reporting requirement for effective room size, in square feet, to ensure consumers have reliable information when making purchasing decisions.

Regarding general certification requirements, DOE proposes that the annual filing for air cleaners shall be submitted on or before December 1. Further, DOE also proposes that the requirements in 10 CFR 429.12 regarding certification apply to air cleaners. Finally, DOE proposes to add a new paragraph (i)(6) in 10 CFR 429.12 to note the compliance date for air cleaners is December 31, 2023.

DOE requests comment on the proposed reporting requirements for air cleaners.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align air cleaner certification reporting requirements with the energy conservation standard requirements established in the April 2023 Air Cleaners DFR, such that the reporting requirements are applicable to air cleaners manufactured on and after December 31, 2023.

The addition of the proposed reporting requirements for air cleaners would newly require manufacturers to

[25] Section 3.14 of the industry standard AHAM AC–1–2020 defines CADR as the measure of the delivery of contaminant free air, within a defined particle size range, by an air cleaner, expressed in cubic feet per minute (''cfm''). CADR is the rate of contaminant reduction in the test chamber when the air cleaner is turned on, minus the rate of natural decay when the air cleaner is not running, multiplied by the volume of the test chamber as measured in cubic feet. Note: CADR values are always the measurement of an air cleaner performance as a complete system and have no linear relationship to the air movement per se or to the characteristics of any particle removal methodology.

[26] 10 CFR part 430, appendix FF defines $PM_{2.5}$ via reference to the industry standard AHAM AC–7–2022, which defines it as particulate matter that are nominally 2.5 micrometers (''μm'') in width or smaller.

report this information. DOE has tentatively concluded that these proposed reporting requirements would impose additional cost to manufacturers and importers. The costs associated with these changes are described in further detail in section IV.C of this document.

DOE requests comment on the certification reporting costs of the proposed new reporting requirements for air cleaners.

S. Single Package Vertical Units

DOE is proposing to amend the reporting requirements for single package vertical air conditioners (''SPVACs'') and single package vertical heat pumps (''SPVHPs''), collectively referred to as ''single package vertical units'' (''SPVUs'').

DOE defines an SPVAC as air-cooled commercial package air conditioning and heating equipment that: (1) is factory-assembled as a single package that: (i) has major components that are arranged vertically; (ii) is an encased combination of cooling and optional heating components; and (iii) is intended for exterior mounting on, adjacent interior to, or through an outside wall; (2) is powered by a single-phase or three-phase current; (3) may contain one or more separate indoor grilles, outdoor louvers, various ventilation options, indoor free air discharges, ductwork, well plenum, or sleeves; and (4) has heating components that may include electrical resistance, steam, hot water, or gas, but may not include reverse cycle refrigeration as a heating means. 10 CFR 431.92. Additionally, DOE defines an SPVHP as a single package vertical air conditioner that: (1) uses reverse cycle refrigeration as its primary heat source; and (2) may include secondary supplemental heating by means of electrical resistance, steam, hot water, or gas. *Id.*

In a test procedure final rule published in the **Federal Register** on December 7, 2022 (''December 2022 SPVU TP final rule''), DOE added definitions for ''single-phase single package vertical air conditioner with cooling capacity less than 65,000 Btu/h'' and ''single-phase single package vertical heat pump with cooling capacity less than 65,000 Btu/h.'' 87 FR 75144, 75167–75168; 10 CFR 431.92. DOE defines this equipment as SPVAC and SPVHP that are either: (1) weatherized, or (2) non-weatherized and have optional ventilation air provisions available with the ability to draw in and condition a minimum of 400 CFM of outdoor air, as determined in accordance with 10 CFR 429.134(x)(3), while the equipment is operating with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment. *Id.*

The Federal test procedures are applicable to SPVUs with a cooling capacity less than 760,000 Btu/h. (42 U.S.C. 6311(8)(D)(ii)) In the December 2022 SPVU TP final rule, DOE incorporated by reference AHRI 390–2021 which maintains the existing efficiency metrics—energy efficiency ratio (''EER'') for cooling mode and coefficient of performance (''COP'') for heating mode—but it also added a seasonal efficiency metric that includes part-load cooling performance—integrated energy efficiency ratio (''IEER''). 87 FR 75144, 75167–75170 (Dec. 7, 2022). In an energy conservation standards NOPR published in the **Federal Register** on December 8, 2022 (''December 2022 SPVU ECS NOPR''), DOE proposed to amend the energy conservation standards for SPVUs to be based on the IEER metric for cooling efficiency (while retaining the COP metric for determining the heating efficiency of SPVHPs). 87 FR 75388, 75421. Consistent with the December 2022 SPVU TP final rule and the December 2022 SPVU ECS NOPR, DOE is proposing amendments to the reporting requirements for SPVUs that would be utilized with energy conservation standards denominated in terms of IEER, should DOE adopt such standards.

1. Reporting

Under the existing requirements for SPVACs and SPVHPs in 10 CFR 429.43(b)(2)(v) and 10 CFR 429.43(b)(2)(vi), respectively, manufacturers must report the following information for SPVACs and SPVHPs: the energy efficiency ratio (EER in British thermal units per Watt-hour (Btu/Wh)) and the rated cooling capacity in British thermal units per hour (Btu/h). For SPVHPs, manufacturers must additionally report the coefficient of performance (COP).

These requirements provide for certifying compliance with the applicable standards for SPVUs manufactured on and after September 23, 2019 for units with cooling capacity <65,000 Btu/h, on and after October 9, 2015 for units ≥65,000 Btu/h and <135,000 Btu/h, and on and after October 9, 2016 for units ≥135,000 Btu/h and <240,000 Btu/h. These energy conservation standards for SPVUs are codified in DOE's regulations at 10 CFR 431.97(d)(3). DOE is proposing to update these requirements and align the reporting requirements with the amended energy conservation standards proposed in the December 2022 SPVU ECS NOPR. DOE discusses these proposed updates in the sections as follows.

a. Revising Certification Reporting Requirements at 10 CFR 429.43(b)(2)(v) and 10 CFR 429.43(b)(2)(vi) When Certifying SPVUs of All Rated Capacities With IEER Standards

SPVU manufacturers are currently required to certify compliance with EER and, for SPVHPs, also COP standards, in addition to the other reported items mentioned previously. In this NOPR, DOE is proposing certification requirements when certifying compliance of SPVUs of all rated capacities with IEER standards, should such standards be adopted. Specifically, DOE proposes to include the following at 10 CFR 429.43(b)(2)(v)(B) and (b)(2)(vi)(B) when certifying compliance an IEER standard: the integrated energy efficiency ratio (IEER in British thermal units per Watt-hour (Btu/Wh)), the rated cooling capacity in British thermal units per hour (Btu/h), and the rated airflow in standard cubic feet per minute (SCFM). Additionally, DOE proposes to include a requirement to certify the coefficient of performance (COP) for SPVHPs at 10 CFR 429.43(b)(2)(vi)(B). DOE also proposes to move the existing text in 10 CFR 429.43(b)(2)(v) and 10 CFR 429.43(b)(2)(vi) to 10 CFR 429.43(b)(2)(v)(A) and 10 CFR 429.43(b)(2)(vi)(A), respectively.

DOE seeks comment on its proposed certification requirements for SPVUs of all rated capacities when certifying compliance with IEER standards.

b. Additional Certification Reporting Requirements for SPVUs With a Cooling Capacity <65,000 Btu/h

As discussed previously, DOE added definitions at 10 CFR 431.92 for single-phase SPVACs and SPVHPs with a cooling capacity less than 65,000 Btu/h. For non-weatherized equipment, the definition requires these SPVUs to have the capability to draw in and condition up to 400 CFM of outdoor air. The method for determining this outdoor ventilation airflow rate is provided at 10 CFR 429.134(x)(3). DOE is proposing to require single-phase SPVAC and SPVHP with cooling capacity less than 65,000 Btu/h to report whether the unit is weatherized or non-weatherized, and if non-weatherized, the amount of outdoor air which it is capable of drawing in and conditioning while the equipment is operating with the same drive kit and motor settings used to determine its certified efficiency rating. These requirements will apply when certifying compliance with energy conservation

standards denominated in terms of IEER, should DOE adopt such standards.

DOE seeks comment on its proposed additional certification requirements for SPVUs with a cooling capacity less than 65,000 Btu/h.

c. Updating Supplemental Testing Instructions for SPVACs and SPVHPs

Manufacturers are currently required to submit Supplemental Testing Instructions (''STIs'') regarding: additional test instructions if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and which, if any, special features were included in rating the basic model. 10 CFR 429.43(b)(4)(vi) and (b)(4)(vii). DOE proposes to further specify the information manufacturers must report in their STIs that would enable the independent conduct a test of the relevant equipment to the updated test procedure in terms of IEER, including requirements to report compressor break-in period and outdoor air-side attachments, and to align with corresponding requirements for CUACs, where appropriate.

In all, DOE proposes to maintain the current requirements of 10 CFR 429.43(b)(4)(vi) and (b)(4)(vii), but move them to 10 CFR 429.43(b)(4)(vi)(A) and (b)(4)(vii)(A) respectively for EER certification. DOE proposes to add new provisions for SPVACs and SPVHPs in 10 CFR 429.43(b)(4)(vi)(B) and (b)(4)(vii)(B) for IEER certification to require: Compressor break-in period duration; rated indoor airflow in standard cubic feet per minute (SCFM); frequency or control set points, including the required dip switch/control settings for step or variable speed components (*e.g.,* compressors, VFDs); rated indoor airflow in SCFM for each part-load point used in the IEER calculation and any special instructions required to obtain operation at each part-load point, such as frequency or control set points including dip switch/control settings for step or variable speed components (*e.g.,* compressors, VFDs); a statement whether the model will operate at test conditions without manufacturer programming; any additional testing instructions, if applicable; and if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; outdoor air-side attachments used for testing, or any additional applicable testing instructions, are also required. Additionally, for SPVHPs, DOE proposes to add a requirement in 10 CFR 429.43(b)(4)(vii)(B) for the rated airflow in SCFM in heating mode if the unit is designed to operate with different airflow rates for cooling and heating mode.

The proposed certification requirements provide further direction to the existing requirements and would not result in significant additional burden for manufacturers. Where DOE identifies specific test-related information, the relevant information is already collected by or available to the manufacturer, and that as such, reporting that information to DOE would result in minimal additional burden.

DOE seeks comment on its proposed supplemental testing instructions requirements for SPVUs when certifying compliance with IEER standards, should such standards be adopted.

d. AEDM Tolerance for IEER

DOE's existing testing regulations allow the use of an AEDM, in lieu of testing, to simulate the efficiency of SPVUs. 10 CFR 429.43(a). For models certified with an AEDM, results from DOE verification tests are subject to certain tolerances when compared to certified ratings. Currently, DOE specifies a 5-percent tolerance for SPVUs verification tests for both EER and COP, identical to the current tolerance specified for these single-point metrics for other categories of commercial air conditioners and heat pumps. *See* table 2 to paragraph (c)(5)(vi)(B) at 10 CFR 429.70. For integrated seasonal metrics (*i.e.,* IEER) for other categories of commercial air conditioners and heat pumps, DOE specifies a 10-percent tolerance. *See Id.* In alignment with such tolerances, DOE is proposing to specify a 10-percent tolerance for IEER for SPVUs.

DOE seeks comment on its proposal to specify a tolerance of 10 percent for SPVU verification tests for IEER.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to align SPVU certification reporting requirements with the amended energy conservation standards proposed in the December 2022 SPVU ECS NOPR.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers, because manufacturers of SPVUs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what SPVU manufacturers are currently doing.

DOE requests comment on the certification reporting costs of the amendments proposed for SPVUs.

T. Ceiling Fan Light Kits

DOE is proposing to amend the reporting requirements for CFLKs, which DOE defines as equipment designed to provide light from a ceiling fan that can be (1) integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or (2) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan at the time of sale or sold separately for subsequent attachment to the fan. 10 CFR 430.2.

1. Reporting

In 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B), DOE specifies information that must be included in the certification report for each basic model of CFLK manufactured on or after January 21, 2020. These paragraphs specify these requirements for ''for each basic model of lamp and/or each basic model of non-consumer-replaceable SSL packaged with the ceiling fan light kit.'' On April 10, 2023, DOE published a final rule amending CFLK test procedures. 88 FR 21061 (''April 2023 CFLK TP Final Rule''). In this rule, to clarify terminology used in the test procedure, DOE replaced the terms ''other SSL products'' and ''integrated SSL circuitry'' with, respectively, ''consumer-replaceable SSL'' and ''non-consumer-replaceable SSL'' in the CFLK test procedure appendix, 10 CFR 429.33, 10 CFR 430.23(x), and 10 CFR 430.32(s)(6). 88 FR 21061, 21067–21068. Because 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B) only specified ''integrated SSL circuitry'' and omitted ''other SSL products,'' the April 2023 CFLK TP Final Rule only replaced ''integrated SSL circuitry'' with ''non-consumer-replaceable SSL'' and did not include ''consumer replaceable SSL'', the replacement term for ''other SSL products.'' 88 FR 21061, 21072. Hence, CFLKs packaged with consumer-

replaceable SSL are inadvertently omitted from this language. DOE is proposing modify this language to include them and read as follows, ''for each basic model of lamp, each basic model of consumer-replaceable SSL, and/or each basic model of non-consumer-replaceable SSL packaged with the ceiling fan light kit''. This proposed modification to 10 CFR 429.33(b)(2)(ii)(A) and (b)(3)(ii)(B) will ensure that all types of CFLKs are explicitly included in certification requirements.

DOE requests comment on the proposed correction to existing CFLK certification requirements.

2. Reporting Costs and Impacts

In this NOPR, DOE proposes to correct the existing certification reporting requirements for CFLKs manufactured on or after January 21, 2020.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers because manufacturers of CFLKs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what CFLK manufacturers are currently doing today.

DOE requests comment on the certification reporting costs of the amendments proposed for CFLKs.

U. Additional Corrections

10 CFR 429.12(i) includes the compliance dates for certain products. Specifically, the instructions state that for any product subject to an applicable energy conservation standard for which the compliance date has not yet occurred, the manufacturer must submit a certification report no later than the compliance date for the applicable energy conservation standard. However, for the covered products currently listed in 10 CFR 429.12(i), the compliance dates for initial certification have already occurred. Accordingly, DOE proposes to remove the covered products and associated compliance dates in 10 CFR 429.12(i)(1)–(5). DOE also proposes to add three new paragraphs at 10 CFR 429.12(i)(1)–(3) for air cleaners, DPPPMs, and DX–DOASes. Initial certification would be required by December 31st, 2023 for air cleaners and May 1st, 2024 for DX–DOASes. For DPPPMs, initial certification would be required 24 months after date of publication of a final rule amending DPPPM standards.

DOE provides definitions related to the energy efficiency program for certain commercial and industrial equipment in 10 CFR 431.2. In this section, DOE has identified updates needed in two definitions. The definition for ''covered equipment'' lists covered equipment and notes where the covered equipment term is defined within 10 CFR. ''Commercial heating, ventilating, and air conditioning, and water heating product (HVAC & WH product)'' are included in this list and refers to this term as defined in § 431.172. However, this term is defined in 10 CFR 431.2, rather than § 431.172. As such, DOE is proposing to update the definition for ''covered equipment'' to update the reference to the definition for ''commercial heating, ventilating, and air conditioning, and water heating product'' in 10 CFR 431.2.

Additionally, as mentioned above, the definition of ''covered equipment'' in 10 CFR 431.2 is intended to reference each equipment type covered within 10 CFR part 431. The current definition does not include all covered equipment types. Therefore, DOE is proposing to add these equipment types and their corresponding definition section references within the definition of covered equipment in 10 CFR 431.2. Specifically, DOE proposes to add references to: fan or blower, as defined in § 431.172; compressor, as defined in § 431.342; small electric motor, as defined in § 431.442; pump, as defined in § 431.462; and dedicated purpose pool pump motor, as defined in § 431.483.

DOE requests comment on the proposed updates to compliance dates listed in 10 CFR 429.12 and to the ''covered equipment'' definition in 10 CFR 431.2.

V. Draft Certification Templates for Review

To help interested parties better understand and review the proposed amendments discussed in the earlier sections of this NOPR, DOE has developed a draft document that includes example tables showing the certification report template inputs as would be required in accordance with the proposals in this NOPR, if finalized.[27] The draft tables also include the data entry requirements for each field in the certification report input table.

The draft certification table headers are not reflective of the final certification regulations that may be adopted by a subsequent final rule, nor do they represent the entirety of the information required in a certification report. Upon completion of this rulemaking, DOE will revise the reporting templates to reflect the final certification regulations once DOE has received approval from OMB to collect the revised information. The specific templates that should be used for certifying compliance of covered products and equipment to DOE are available for download at *www.regulations.doe.gov/ccms/templates.*

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866, 13563, and 14094

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), and amended by E.O. 14094, ''Modernizing Regulatory Review,'' 88 FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, 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 specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management

[27] The draft reporting template requirements will be made available in docket number EERE–2023–BT–CE–0001, available at *www.regulations.gov,* upon publication of this NOPR.

and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. This action does not constitute a significant action under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *www.energy.gov/gc/office-general-counsel.* DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003.

DOE has tentatively concluded that the removal of outdated reporting requirements and the addition of new reporting requirements adopted in this final rule will not impose additional costs for manufacturers of CAC/HPs, DWs, RCWs, dehumidifiers, EPSs, battery chargers, CRACs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, SPVUs, and CFLKs for the reasons discussed in section III of this document. For these products and equipment, DOE has determined that the amendments will not impose additional costs for manufacturers because manufacturers are already submitting certification reports to DOE and should have readily available the information that DOE is requiring as part of this proposed rulemaking. Consequently, for these types of covered products and equipment, the changes in this proposed rule are not expected to have a significant economic impact on related entities regardless of size.

For electric pool heaters, no certification is currently required. This proposal would add reporting requirements to align with the amended energy conservation standards finalized in the May 2023 Pool Heaters Final Rule, which established new and amended energy conservation standards for electric pool heaters. 88 FR 34624. Therefore, electric pool heater manufacturers would incur additional paperwork costs.

Consumer pool heaters are classified under NAICS code 333414, ''heating equipment (except warm air furnaces) manufacturing.'' The SBA sets a threshold of 500 employees or fewer for an entity to be considered as a small business for this category. DOE used publicly available information to identify potential small manufacturers. DOE's research involved industry trade association membership directories (*e.g.,* AHRI), information from previous rulemakings, individual company websites, and market research tools (*e.g.,* D&B Hoovers reports) to create a list of companies that manufacture consumer pool heaters. DOE also asked stakeholders and industry representatives if they were aware of any additional small manufacturers during manufacturer interviews. DOE reviewed publicly available data and contacted various companies on its complete list of manufacturers to determine whether they met the SBA's definition of a small business manufacturer. DOE screened out companies that do not offer products impacted by this rulemaking, do not meet the definition of a ''small business,'' or are foreign-owned and operated. DOE identified 21 companies manufacturing consumer pool heaters covered by this proposed rulemaking. Of these manufacturers, DOE identified six as domestic small businesses. None of these six businesses manufacture gas fired pool heaters. Five manufacture electric heat pump pool heaters and one manufactures electric resistance pool heaters. DOE estimates that the increased certification burden would result in 35 hours per manufacturer to develop the required certification reports. Therefore, based on a fully burdened labor rate of $67 per hour, the estimated total annual cost to manufacturers would be $2,345 per manufacturer.[28] Using available public information, DOE estimated the average annual revenue of the six small businesses. Among the small businesses, the lowest estimated annual revenue was approximately $259,000—therefore, this additional certification cost of $2,345 per manufacturer represents less than 1 percent of the identified manufacturer's annual revenue.

Additionally, for DX–DOASes, no certification is currently required. This proposal would add reporting requirements to align with the new energy conservation standards. 10 CFR 431.97(g). Therefore, DX–DOASes manufacturers would incur additional paperwork costs as well. DX–DOASes are classified under NAICS code 333415,[29] ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' The SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business for this category. In reviewing the DX–DOAS market, DOE used company websites, marketing research tools, product catalogues, and other public information to identify companies that manufacture DX–DOASes. DOE screened out companies that do not meet the definition of ''small business'' or are foreign-owned and operated. DOE used subscription-based business information tools to determine headcount, revenue, and geographic presence of the small businesses. DOE identified twelve companies manufacturing DX–DOASes covered by this rulemaking. Of these manufacturers, DOE identified one as a domestic small business. DOE estimates that the increased certification burden would result in 35 hours per manufacturer to develop the required certification reports. Therefore, based on a fully burdened labor rate of $67 per hour, the estimated total annual cost to manufacturers would be $2,345 per manufacturer.[30] DOE understands the annual revenue of the small business

[28] Supporting Statement for Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recording keeping for Consumer Products and Commercial Equipment Subject to Energy or Water Conservation Standards. Available at *omb.report/icr/202112-1910-001/doc/117137200.*

[29] The business size standards are listed by NAICS code and industry description and are available at *www.sba.gov/document/support-table-size-standards* (last Accessed July 29th, 2021).

[30] Supporting Statement for Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recording keeping for Consumer Products and Commercial Equipment Subject to Energy or Water Conservation Standards. Available at *omb.report/icr/202112-1910-001/doc/117137200.*

that manufactures DX–DOASes to be approximately $66 million. 87 FR 5560, 5584. Therefore, this additional certification cost of $2,345 per manufacturer represents significantly less than 1 percent of the identified manufacturer's annual revenue.

This document also proposes certification reporting requirements for commercial electric instantaneous water heaters, which would align with the previously inadvertently omitted energy conservation standards put in place by EPCA and were proposed in the May 2022 CWH NOPR. 87 FR 30610. As a result, commercial electric instantaneous water heater manufacturers would incur additional paperwork costs. CWH equipment is classified under NAICS code 333310,[31] ''Commercial and Service Industry Machinery Manufacturing.'' In 13 CFR 121.201, the SBA sets a threshold of 1,000 employees or fewer for an entity to be considered as a small business for this category. DOE's analysis relied on publicly available databases to identify potential small businesses that manufacture equipment covered in this rulemaking. DOE utilized the California Energy Commission's MAEDbS,'' [32] DOE's ENERGY STAR Database,[33] and DOE's CCD [34] in identifying manufacturers. DOE's research identified nine original equipment manufacturers (''OEMs'') of commercial electric instantaneous water heaters being sold in the U.S. market. Of these nine companies, DOE has identified three as domestic small businesses. The small businesses do not currently certify any other CWH equipment to DOE's Compliance Certification Management System (''CCMS''). DOE estimates that the increased certification burden would result in 35 hours per manufacturer to develop the required certification reports. Therefore, based on a fully burdened labor rate of $67 per hour, the estimated total annual cost to manufacturers would be $2,345 per manufacturer.[35] Using available public information, DOE estimated the annual revenue for all three small businesses that manufacture commercial electric instantaneous water heaters. The small business with the least annual revenue has an annual revenue of approximately $10,400,000. Therefore, this additional certification cost of $2,345 per manufacturer represents significantly less than 1 percent of each identified manufacturer's annual revenue.

For DPPPMs, no certification is currently required. This proposal would add reporting requirements to align with the energy conservation standards proposed in the June 2022 DPPPM NOPR, which proposed new energy conservation standards for DPPPMs. 87 FR 37122. Therefore, DPPPM manufacturers would incur additional paperwork costs. DPPPMs are classified under NAICS code 335312, ''Motor and Generator Manufacturing.'' The SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business in this category. DOE screened out companies that do not offer products impacted by this rulemaking, do not meet the definition of a ''small business,'' or are foreign-owned and operated. DOE identified five companies manufacturing DPPPMs for the domestic market. Of those, DOE determined that one company met the SBA definition of a small business. DOE estimates that the increased certification burden would result in 35 hours per manufacturer to develop the required certification reports annually. Therefore, based on a fully burdened labor rate of $67 per hour, the estimated total annual cost to manufacturers would be $2,345 per manufacturer.[36] DOE was able to identify an annual revenue estimate of approximately $28.2 million for the small business.[37] Therefore, this additional certification cost of $2,345 per manufacturer represents significantly less than 1 percent of the identified manufacturer's annual revenue.

This proposal would also add reporting requirements to align with the energy conservation standards established in the April 2023 Air Cleaners DFR, which developed new energy conservation standards for air cleaners. Therefore, air cleaner manufacturers would incur additional paperwork costs. Air cleaners are classified under NAICS code 335210, ''Small Electrical Appliance Manufacturing.'' The SBA sets a threshold of 1,500 employees or fewer for an entity to be considered as a small business for this category. DOE conducted a market survey to identify potential small manufacturers of air cleaners. DOE began its assessment by reviewing Association of Home Appliance Manufacturers' (AHAM's) database [38] of air cleaners, models in ENERGY STAR V.2.0,[39] California Air Resources Board,[40] and individual company websites. DOE then consulted publicly available data, such as manufacturer websites, manufacturer specifications and product literature, and import/export logs (*e.g.,* bills of lading from Panjiva [41]), to identify OEMs of air cleaners. DOE further relied on public data and subscription-based market research tools (*e.g.,* Dun & Bradstreet reports [42]) to determine company, location, headcount, and annual revenue. DOE screened out companies that do not offer products covered by this proposed rulemaking, do not meet the SBA's definition of a ''small business,'' or are foreign-owned and operated. DOE initially identified 43 OEMs that sell air cleaners in the United States. Of the 43 OEMs identified, DOE tentatively determined four companies qualify as small businesses and are not foreign-owned and operated. DOE estimates that the increased certification burden would result in 35 hours per manufacturer to develop the required certification reports. Therefore, based on a fully burdened labor rate of $67 per hour, the estimated total annual cost to manufacturers would be $2,345 per manufacturer.[43] Using available public

[31] The business size standards are listed by NAICS code and industry description and are available at *www.sba.gov/document/support-table-size-standards* (last accessed March 7th, 2023).

[32] MAEDbS can be accessed at *https://www.energy.ca.gov/programs-and-topics/programs/appliance-efficiency-program-outreach-and-education/modernized* (last accessed July 15th, 2021).

[33] ENERGY STAR-certified products can be found in the ENERGY STAR database accessed at *www.energystar.gov/productfinder/product/certified-commercial-water-heaters/results* (last accessed July 15th, 2021).

[34] Certified equipment in the CCD are listed by product class and can be accessed at *www.regulations.doe.gov/certification-data/#q=Product_Group_s%3A** (last accessed July 15th, 2021).

[35] Supporting Statement for Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recording keeping for Consumer Products and Commercial Equipment Subject to Energy or Water Conservation Standards. Available at *omb.report/icr/202112-1910-001/doc/117137200.*

[36] Supporting Statement for Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recording keeping for Consumer Products and Commercial Equipment Subject to Energy or Water Conservation Standards. Available at *omb.report/icr/202112-1910-001/doc/117137200.*

[37] The small business's annual revenue estimate is taken from D&B Hoovers (*app.avention.com*).

[38] Association of Home Appliance Manufacturers. ''Find a Certified Room Air Cleaner.'' Available at *ahamverifide.org/directory-of-air-cleaners/* (last accessed January 24, 2022).

[39] Available at *data.energystar.gov/Active-Specifications/ENERGY-STAR-Certified-Room-Air-Cleaners/jmck-i55n/data* (last accessed May 31, 2022).

[40] The California Air Resources Board. ''List of CARB-Certified Air Cleaning Devices.'' Available at *ww2.arb.ca.gov/list-carb-certified-air-cleaning-devices* (last accessed May 31, 2022).

[41] S&P Global. Panjiva Market Intelligence is available at *panjiva.com/import-export/United-States* (last accessed May 5, 2022).

[42] The Dun & Bradstreet Hoovers login is available at *app.dnbhoovers.com.*

[43] Supporting Statement for Certification Reports, Compliance Statements, Application for a Test

Continued

information, DOE estimated the annual revenue for all four small businesses that manufacture air cleaners. The small business with the least annual revenue has an annual revenue of approximately $1.3 million. Therefore, this additional certification cost of $2,345 per manufacturer represents significantly less than 1 percent of each identified manufacturer's annual revenue.

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. On the basis of the forgoing, DOE initially concludes that the impacts of the amendments to DOE's certification regulations proposed in this NOPR would not have a ''significant economic impact on a substantial number of small entities.'' Accordingly, DOE has not prepared an IRFA for this NOPR. DOE will transmit this certification of no significant impact on a substantial number of small entities and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX–DOASes, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs,[44] compressors, DPPPMs, air cleaners, and SPVUs must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX–DOASes, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMs, air cleaners, SPVUs, and CFLKs. (*See generally* 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). DOE's current reporting requirements are approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

1. Description of the Requirements

DOE is proposing to establish or amend the reporting requirements for CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX–DOASes, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMs, air cleaners, SPVUs, and CFLKs. DOE will send a revised information collection approval to OMB under the existing Control Number 1910–1400. The revisions will just reflect the changes proposed in this rulemaking as an amendment to the existing information collection.

2. Method of Collection

DOE is proposing that respondents must submit electronic forms using DOE's online CCMS. DOE's CCMS is publicly accessible at *www.regulations.doe.gov/ccms/,* and includes instructions for users, registration forms, and the product-specific reporting templates required for use when submitting information to CCMS.

3. Data

The following are DOE estimates of the total annual reporting and recordkeeping burden imposed on manufacturers of CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX–DOASes, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMs, air cleaners, SPVUs, and CFLKs subject to the new or amended certification reporting requirements proposed in this proposed rule. These estimates take into account the time necessary to develop any additional testing documentation, maintain any additional documentation supporting the development of the certified rating for each basic model, complete any additional certification, and submit any additional required documents to DOE electronically.

DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers of CAC/HPs, DWs, RCWs, dehumidifiers, EPSs, battery chargers, CRACs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, electric storage CWHs, ACIMs, walk-ins, commercial and industrial pumps, compressors, SPVUs, and CFLKs because manufacturers of these products or equipment are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this proposed rulemaking. Additionally, for portable ACs, manufacturers may optionally submit certification reports to DOE and the costs associated with certification requirements for portable ACs were already accounted for in the January 2020 Portable ACs ECS Final Rule.

DOE's proposed amendments for the reporting requirements for pool heaters would require new certification reporting for electric pool heater manufacturers and importers. DOE estimates there are 18 manufacturers of electric pool heaters that would have to submit annual certification reports to DOE for those products based on the proposed reporting requirements. Of these 18 manufacturers, 4 make both gas-fired and electric pool heaters. Therefore, 14 do not currently certify gas-fired pool heaters and would be required to begin submitting certification reports for electric pool heaters. The following section estimates the burden for these 14 electric pool heater manufacturers.

OMB Control Number: 1910–1400.
Form Number: DOE F 220.13.
Type of Review: Regular submission.
Affected Public: Domestic manufacturers and importers of electric pool heaters covered by this proposed rulemaking.
Estimated Number of Respondents: 14.
Estimated Time per Response: Certification reports, 35 hours.
Estimated Total Annual Burden Hours: 490.
Estimated Total Annual Cost to the Manufacturers: $32,830 in recordkeeping/reporting costs.

DOE's proposed addition of reporting requirements for direct expansion-dedicated outdoor air systems would require new certification reporting for

Procedure Waiver, and Recording keeping for Consumer Products and Commercial Equipment Subject to Energy or Water Conservation Standards. Available at *omb.report/icr/202112-1910-001/doc/117137200.*

[44] The certification reporting requirements for portable ACs were established in the January 2020 Portable ACs ECS Final Rule. However, the energy conversation standard for portable ACs does not go into effect until January 2025, until which time manufacturers may optionally submit certification reports to DOE.

direct expansion-dedicated outdoor air systems. DOE estimates there are 12 manufacturers of direct expansion-dedicated outdoor air systems that would have to submit annual certification reports to DOE for those products based on the proposed reporting requirements. The following section estimates the burden for these 12 direct expansion-dedicated outdoor air system manufacturers.

OMB Control Number: 1910–1400.

Form Number: DOE F 220.96.

Type of Review: Regular submission.

Affected Public: Domestic manufacturers and importers of direct expansion-dedicated outdoor air systems covered by this proposed rulemaking.

Estimated Number of Respondents: 12.

Estimated Time per Response: Certification reports, 35 hours.

Estimated Total Annual Burden Hours: 420.

Estimated Total Annual Cost to the Manufacturers: $28,140 in recordkeeping/reporting costs.

DOE's proposed addition of reporting requirements for commercial electric instantaneous water heaters would require new certification reporting for commercial electric instantaneous water heaters. DOE estimates there are 9 manufacturers of commercial electric instantaneous water heaters that would have to submit annual certification reports to DOE for those products based on the proposed reporting requirements. The following section estimates the burden for these 9 commercial electric instantaneous water heater manufacturers.

OMB Control Number: 1910–1400.

Form Number: DOE F 220.43.

Type of Review: Regular submission.

Affected Public: Domestic manufacturers and importers of commercial electric instantaneous water heater manufacturers covered by this proposed rulemaking.

Estimated Number of Respondents: 9.

Estimated Time per Response: Certification reports, 35 hours.

Estimated Total Annual Burden Hours: 315.

Estimated Total Annual Cost to the Manufacturers: $21,105 in recordkeeping/reporting costs.

DOE's proposed amendments for the reporting requirements for dedicated-purpose pool pump motors would require new certification reporting for dedicated-purpose pool pump manufacturers and importers. DOE estimates there are five manufacturers of dedicated-purpose pool pump motors that would have to submit annual certification reports to DOE for those products based on the proposed reporting requirements. The following section estimates the burden for these five dedicated-purpose pool pump motor manufacturers.

OMB Control Number: 1910–1400.

Form Number: DOE F 220.97.

Type of Review: Regular submission.

Affected Public: Domestic manufacturers and importers of dedicated-purpose pool pump motors covered by this proposed rulemaking.

Estimated Number of Respondents: 5.

Estimated Time per Response: Certification reports, 35 hours.

Estimated Total Annual Burden Hours: 175.

Estimated Total Annual Cost to the Manufacturers: $11,725 in recordkeeping/reporting costs.

DOE's proposed amendments for the reporting requirements for air cleaners would require new certification reporting for air cleaner manufacturers and importers. DOE estimates that there are 43 manufacturers of air cleaners that would have to submit annual certification reports to DOE for those products based on the proposed reporting requirements. The following section estimates the burden for these 43 air cleaner manufacturers.

OMB Control Number: 1910–1400.

Form Number: DOE F 220.100.

Type of Review: Regular submission.

Affected Public: Domestic manufacturers and importers of air cleaners covered by this proposed rulemaking.

Estimated Number of Respondents: 43.

Estimated Time per Response: Certification reports, 35 hours.

Estimated Total Annual Burden Hours: 1,505.

Estimated Total Annual Cost to the Manufacturers: $100,835 in recordkeeping/reporting costs.

4. Conclusion

DOE has tentatively concluded that the removal of outdated reporting requirements and the addition of reporting requirements as proposed in this NOPR would not impose additional costs for CAC/HPs, DWs, RCWs, dehumidifiers, EPSs, battery chargers, CRACs, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, electric storage CWHs, ACIMs, walk-ins coolers and freezers, commercial and industrial pumps, portable ACs, compressors, SPVUs, and CFLKs (*see* sections III.A.2, III.B.2, III.C.2, III.E.2, III.F.2, III.G.2, III.H.2, III.J.2, III.K.2, III.L.2, III.M.2, III.N.2, III.O.2, III.P.2, III.S.2, III.T.2, and III.U.2 of this document for a more complete discussion). Furthermore, DOE has tentatively concluded that there are 14 pool heater manufacturers, 12 DX–DOAS manufacturers, nine CWH manufacturers, five DPPPM manufacturers, and 43 air cleaner manufacturers that would newly be required to submit annual certification reports to DOE for those products. For all other manufacturers of covered products or equipment described in this NOPR, the public reporting burden for certification remains unchanged.

Public comment is sought regarding: (1) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the burden estimate; (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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the email address listed in the **ADDRESSES** section and to the OMB Desk Officer by email to *Sofie.E.Miller@omb.eop.gov.*

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

D. Review Under the National Environmental Policy Act of 1969

In this NOPR, DOE proposes amended certification, reporting, and labeling requirements for CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX–DOASes, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMs, air cleaners, SPVUs, and CFLKs. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that adopting test procedures for measuring energy efficiency of consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, A5 and A6. Accordingly, neither an environmental assessment nor an

environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause 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 annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *www.energy.gov/gc/office-general-counsel.* DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For

any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

The proposed regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

The proposed modifications to the certification reporting and labeling requirements for CAC/HPs, DWs, RCWs, pool heaters, dehumidifiers, EPSs, battery chargers, CRACs, DX–DOASes, three-phase, less than 65,000 Btu/h ACUACs and ACUHPs, three-phase, less than 65,000 Btu/h VRF, CWHs, ACIMs, walk-ins, commercial and industrial pumps, portable ACs, compressors, DPPPMs, air cleaners, SPVUs, and CFLKs do not incorporate testing methods contained in any commercial standards.

M. Description of Materials Incorporated by Reference

DOE is proposing to remove the existing incorporation by reference of industry standard ANSI/AHAM DW–1–2010 from 10 CFR 429.4 and 429.19. No other changes are being proposed to materials incorporated by reference.

V. Public Participation

A. Participation in the Webinar

The time and date of the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www.energy.gov/eere/buildings/implementation-certification-and-enforcement.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this proposed rule, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit to *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar/public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The webinar will be conducted in an informal, conference style. DOE will a general overview of the topics addressed in this rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the webinar/public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar.

A transcript of the webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this proposed rule.[45] Interested parties

[45] DOE has historically provided a 75-day comment period for test procedure NOPRs pursuant to the North American Free Trade Agreement, U.S.-Canada-Mexico (''NAFTA''), Dec. 17, 1992, 32 I.L.M. 289 (1993); the North American Free Trade Agreement Implementation Act, Public Law 103–182, 107 Stat. 2057 (1993) (codified as amended at 10 U.S.C.A. 2576) (1993) (''NAFTA Implementation Act''); and Executive Order 12889, ''Implementation of the North American Free Trade Agreement,'' 58 FR 69681 (Dec. 30, 1993). However, on July 1, 2020, the Agreement between the United States of America, the United Mexican States, and the United

Continued

may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI''). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (''faxes'') will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE seeks comment on its proposal to require reporting of whether a variable speed coil-only rating is based on non-communicating or communicating control.

(2) DOE seeks comment on its proposal to require reporting of whether a CAC/HP system varies blower speeds with outdoor air conditions.

(3) DOE seeks comment on its proposal to correct the sampling provisions for CAC/HPs to reference appendix A instead of appendix D.

(4) DOE requests comment on the certification reporting costs of the amendments proposed for CAC/HPs.

(5) DOE requests comment on its proposal to remove ANSI/AHAM DW–1–2010 from the referenced industry standard in 10 CFR 429.19(b)(2).

(6) DOE requests comment on the proposed requirement to confidentially report the cycle selected for the energy test at the heavy, medium, and light soil loads and whether these cycles are soil-sensing as well as the options selected for the energy test at the heavy, medium, and light soil loads when testing according to appendix C2.

(7) DOE requests comment on the proposed requirement to confidentially report the average cleaning index of the sensor heavy response, sensor medium response, and sensor light response test cycles.

(8) DOE seeks comment on its proposal to require that additional machine electrical energy consumption required for a drain out event and clean out event—expressed in kWh—and the additional water consumption required for drain out and clean out events during a drain out cycle—expressed in gal/cycle—be reported confidentially.

(9) DOE seeks comment on its proposal to require reporting of reservoir capacity in gallons, prewash and main wash fill water volume in gallons (if testing is performed using appendix C1), and the total water consumption in gallons per cycle for DWs with built-in reservoirs.

(10) DOE requests comment on the proposed rounding requirements for DWs.

Canadian States (''USMCA''), Nov. 30, 2018, 134 Stat. 11 (*i.e.,* the successor to NAFTA), went into effect, and Congress's action in replacing NAFTA through the USMCA Implementation Act, 19 U.S.C. 4501 *et seq.* (2020), implies the repeal of E.O. 12889 and its 75-day comment period requirement for technical regulations. Thus, the controlling laws are EPCA and the USMCA Implementation Act. Consistent with EPCA's public comment period requirements for consumer products, the USMCA only requires a minimum comment period of 60 days. Consequently, DOE now provides a 60-day public comment period for test procedure NOPRs.

(11) DOE requests comment on the certification reporting costs of the amendments proposed for DWs.

(12) DOE requests comment on its proposal to remove reporting requirements applicable to appendix J1 from 10 CFR 429.20(b)(2)(i).

(13) DOE requests comment on its proposal to update reporting requirement terminology to specify ''clothes container capacity for RCWs.

(14) DOE requests comment on its proposal to require the reporting of the test cloth lot number for RCWs for the purpose of implementing the enforcement provisions in 10 CFR 429.134(c), as well as its proposal that the reported test cloth lot number would not be public.

(15) DOE requests comment on the proposed RCW reporting requirements for EER and WER, including the proposed rounding requirements.

(16) DOE requests comment on its proposal to require reporting the type of control system (automatic or semi-automatic) for RCWs.

(17) DOE requests comment on its proposal to require reporting of RMC, clothes container capacity, and type of loading (top-loading or front-loading) for RCWs tested in accordance with appendix J.

(18) DOE requests comment on the certification reporting costs of the amendments proposed for RCWs.

(19) DOE seeks comment on its proposal to require the reporting of input capacity, active electrical power, and integrated thermal efficiency. DOE also seeks comment on the proposed rounding requirements.

(20) DOE requests comment on the certification reporting costs of the amendments proposed for pool heaters.

(21) DOE seeks comment on its proposal to remove the outdated appendix X certification requirements.

(22) DOE requests comment on the certification reporting costs of the amendments proposed for dehumidifiers.

(23) DOE seeks comment on its proposal to require the reporting of output cord specifications for EPSs.

(24) DOE seeks comment on its proposal to require the reporting of measured output voltage for EPSs for each port.

(25) DOE seeks comment on its proposal to require manufacturers of exempt EPSs to report the year for which the sales number being reported represents.

(26) DOE requests comment on the certification reporting costs of the amendments proposed for EPSs.

(27) DOE seeks comment on the proposed updates to reporting requirements for wired and fixed-location wireless battery chargers tested under appendix Y1.

(28) DOE seeks comment on the proposal to further specify the reporting requirements for open-placement wireless battery chargers tested under appendix Y1.

(29) DOE requests comment on the certification reporting costs of the amendments proposed for battery chargers.

(30) DOE seeks comment on its proposal to require the reporting of net sensible cooling capacity in Btu/h, the net total cooling capacity in Btu/h, whether the basic model is split system or single-package, the configuration (*e.g.,* downflow, upflow ducted, upflow non-ducted, horizontal flow, ceiling-mounted ducted, ceiling-mounted non-ducted), fluid economizer presence (or lack thereof), condenser heat rejection medium (air, water, or glycol-cooled), NSenCOP, rated airflow in SCFM, and the refrigerant used to determine the represented values.

(31) DOE seeks comment on its proposed supplemental testing instructions requirements for CRACs when certifying compliance with NSenCOP standards.

(32) DOE seeks comment on its proposal to require the reporting of both indoor unit and outdoor unit individual model numbers for split-system CRACs.

(33) DOE seeks comment on its proposal to specify a tolerance of 5 percent for CRAC verification tests for NSenCOP.

(34) DOE requests comment on the certification reporting costs of the amendments proposed for CRACs.

(35) DOE seeks comment on requiring the reporting of ISMRE2 and ISCOP2 to certify compliance with the standards applicable to DX–DOASes manufactured on or after May 1, 2024. DOE also seeks comment on reporting rated moisture removal capacity and rated supply airflow rate.

(36) DOE seeks comment on its proposal to include reporting requirements for DX–DOASes with ventilation energy recovery systems.

(37) DOE seeks comment on its proposal to require supplemental testing instruction file contents for DX–DOASes.

(38) DOE requests comment on its proposal to add new reporting requirements for DX–DOASes.

(39) DOE seeks comment on its proposal to require the reporting of new metrics, such as SEER2 and HSPF2.

(40) DOE seeks comment on its proposal to correct the sampling provisions for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF to reference appendix A.

(41) DOE requests comment on the certification reporting costs of the amendments proposed for three-phase, less than 65,000 Btu/h ACUACs and ACUHPs and three-phase, less than 65,000 Btu/h VRF.

(42) DOE seeks comment on its proposal to require the reporting of thermal efficiency, storage volume, rated input, and whether the storage volume is determined using a weight-based test or the calculation-based method for commercial electric instantaneous water heaters of all storage volumes (except for residential-duty commercial electric instantaneous water heaters). DOE also seeks comment on its proposal to require the reporting of standby loss, whether the water heater initiates heating element operation based on a temperature-controlled call for heating that is internal to the water heater, whether the water heater includes an integral pump purge functionality, and the default duration of the pump off delay (for models equipped with integral pump purge) for electric instantaneous water heaters with storage volume greater than or equal to 10 gallons. Additionally, DOE seeks comment on its proposed calculation-based method for determining storage volume of electric instantaneous water heaters.

(43) DOE seeks comment on its proposal to add a requirement for the reporting of rated input for commercial electric storage water heaters.

(44) DOE requests comment on the certification reporting costs of the amendments proposed for commercial electric instantaneous water heaters and commercial electric storage water heaters.

(45) DOE seeks comment on its proposal to align ACIM reporting requirement terminology with the amended terms.

(46) DOE seeks comment on its proposal to establish rounding requirements for ACIMs.

(47) DOE seeks comment on its proposal to correct the sampling provisions for ACIMs.

(48) DOE requests comment on the certification reporting costs of the amendments proposed for ACIMs.

(49) DOE seeks comment on its proposal to require the reporting of whether a basic model meets the definition of a CO_2 unit cooler.

(50) DOE seeks comment on its proposal to require the reporting of whether a basic model meets the definition of a detachable single-packaged dedicated system or an attached split system.

(51) DOE seeks comment on its proposal to require the reporting of whether a dedicated condensing system basic model includes flooded head pressure controls.

(52) DOE seeks comment on its proposal to amend the reporting requirements and provide an option for manufactures to report compressor break-in.

(53) DOE seeks comment on its proposal to require, if necessary to run a valid test, supplemental testing information as a PDF file at the time of certification.

(54) DOE seeks comment on its proposal to require the reporting of the conditions at which the controls activate the ASH wire for walk-in doors with ASH controls.

(55) DOE requests comment on its proposed additional certification reporting requirements for walk-in doors and refrigeration systems.

(56) DOE requests comment on the certification reporting costs of the amendments proposed for walk-ins.

(57) DOE requests comment on its proposal to require that date of manufacture be included on a panel nameplate, including its tentative conclusion that this would be technologically feasible and would not be burdensome to include. DOE also requests comment on its proposal to require CO_2 unit coolers be labeled with the statement ''Only CO_2 is approved as a refrigerant for this system'', including its tentative conclusion that this would not be burdensome to include.

(58) DOE seeks comment on its proposal to require certification of pump efficiency at BEP in percent, constant load pump energy rating (''PERCL''), and variable load pump energy rating (''PERVL'').

(59) DOE requests comment on the certification reporting costs of the amendments proposed for commercial and industrial pumps.

(60) DOE requests comment on the clarifying amendments to 10 CFR 429.62(b)(2) to better represent the intent of the instruction in appendix CC and 10 CFR 429.62(a)(5).

(61) DOE seeks comment on requiring whether a basic model is variable-speed, and if so, to report the SACCFull, in Btu/h.

(62) DOE requests comment on the certification reporting costs of the amendments proposed for portable ACs.

(63) DOE seeks comment on the proposed annual filing date of September 1 for compressors.

(64) DOE requests comment on the proposed annual filing date for compressors and any corresponding certification and reporting costs.

(65) DOE seeks comment on the proposed reporting requirements for DPPPMs.

(66) DOE seeks comment on the proposed rounding requirements for DPPPMs.

(67) DOE requests comment on the certification reporting costs of the proposed new reporting requirements for DPPPMs.

(68) DOE requests comment on the proposed reporting requirements for air cleaners.

(69) DOE requests comment on the certification reporting costs of the proposed new reporting requirements for air cleaners.

(70) DOE seeks comment on its proposed certification requirements for SPVUs of all rated capacities when certifying compliance with IEER standards.

(71) DOE seeks comment on its proposed additional certification requirements for SPVUs with a cooling capacity less than 65,000 Btu/h.

(72) DOE seeks comment on its proposed supplemental testing instructions requirements for SPVUs when certifying compliance with IEER standards, should such standards be adopted.

(73) DOE seeks comment on its proposal to specify a tolerance of 10 percent for SPVU verification tests for IEER.

(74) DOE has tentatively determined that these proposed amendments would not impose additional costs for manufacturers, because manufacturers of SPVUs are already submitting certification reports to DOE and should have readily available the information that DOE is proposing to collect as part of this rulemaking. DOE does not believe the revised reporting requirements will cause any appreciable change in reporting burden or hours as compared to what SPVU manufacturers are currently doing. DOE requests comment on the certification reporting costs of the amendments proposed for SPVUs.

(75) DOE requests comment on the proposed correction to existing CFLK certification requirements.

(76) DOE requests comment on the certification reporting costs of the amendments proposed for CFLKs.

(77) DOE requests comment on the proposed updates to compliance dates listed in 10 CFR 429.12 and to the ''covered equipment'' definition in 10 CFR 431.2.

Additionally, DOE welcomes comments on other issues relevant to the conduct of this rulemaking that may not specifically be identified in this document.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking and announcement of public meeting.

List of Subjects

10 CFR Part 429

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

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on August 28, 2023, by Francisco Alejandro Moreno, Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 31, 2023.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE is proposing to amend parts 429 and 431 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

§ 429.4 [Amended]

■ 2. Section 429.4 is amended by removing paragraph (b)(1) and redesignating paragraphs (b)(2) and (3) as paragraphs (b)(1) and (2), respectively.

■ 3. Section 429.12is amended by:

■ a. Revising paragraphs (b)(12) and (13) and paragraph (d); and

■ b. Removing paragraphs (i)(1) through (i)(5) and adding new paragraphs (i)(1) through (i)(3).

The revisions read as follows:

§ 429.12 General requirements applicable to certification reports.

* * * * *

(b) * * *

(12) If the test sample size is listed as ''0'' to indicate the certification is based upon the use of an alternate way of determining measures of energy conservation, identify the method used for determining measures of energy conservation (such as ''AEDM,'' or linear interpolation). Manufacturers of commercial packaged boilers, commercial water heating equipment, commercial refrigeration equipment, commercial HVAC equipment, central air conditioners and central air conditioning heat pumps, and walk-in coolers and walk-in freezers must provide the manufacturer's designation (name or other identifier) of the AEDM used; and

(13) Product specific information listed in §§ 429.14 through 429.68 of this chapter.

* * * * *

(d) *Annual filing.* All data required by paragraphs (a) through (c) of this section shall be submitted to DOE annually, on or before the following dates:

TABLE 1 TO PARAGRAPH (d)

Product category	Deadline for data submission
Portable air conditioners	February 1.
Fluorescent lamp ballasts; Compact fluorescent lamps; General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps; Candelabra base incandescent lamps and intermediate base incandescent lamps; Ceiling fans; Ceiling fan light kits; Showerheads; Faucets; Water closets; and Urinals.	March 1.
Water heaters; Consumer furnaces; Pool heaters; Commercial water heating equipment; Commercial packaged boilers; Commercial warm air furnaces; Commercial unit heaters; and Furnace fans.	May 1.
Dishwashers; Commercial pre-rinse spray valves; Illuminated exit signs; Traffic signal modules and pedestrian modules; and Distribution transformers.	June 1.
Room air conditioners; Central air conditioners and central air conditioning heat pumps; Commercial heating, ventilating, air conditioning (HVAC) equipment (excluding air-cooled, three-phase, small commercial package air conditioning and heating equipment with a cooling capacity of less than 65,000 British thermal units per hour and air-cooled, three-phase, variable refrigerant flow multi-split air conditioners and heat pumps with less than 65,000 British thermal units per hour cooling capacity); and Air-cooled, three-phase, small commercial package air conditioning and heating equipment with a cooling capacity of less than 65,000 British thermal units per hour and air-cooled, three-phase, variable refrigerant flow multi-split air conditioners and heat pumps with a cooling capacity of less than 65,000 British thermal units per hour.	July 1.
Consumer refrigerators, refrigerator-freezers, and freezers; Commercial refrigerators, freezers, and refrigerator-freezers; Automatic commercial ice makers; Refrigerated bottled or canned beverage vending machines; Walk-in coolers and walk-in freezers; and Consumer miscellaneous refrigeration products.	August 1.
Torchieres; Dehumidifiers; Metal halide lamp ballasts and fixtures; External power supplies; Pumps; Dedicated-purpose pool pump motors; Compressors; and Battery chargers.	September 1.
Residential clothes washers; Residential clothes dryers; Direct heating equipment; Cooking products; and Commercial clothes washers.	October 1.
Air Cleaners	December 1.

* * * * *

(i) * * *

(1) Air cleaners, December 31, 2023.

(2) Dedicated-purpose pool pump motors, (*date 24 months after date of publication of a final rule amending pool pump motor standards*).

(3) Direct expansion-dedicated outdoor air systems, May 1, 2024.

* * * * *

■ 4. Section 429.16 is amended by:

■ a. Revising paragraphs (b)(3)(i)(B), (b)(3)(ii)(B), and (b)(3)(iii)(A)(2);

■ b. Adding paragraph (e)(2)(vi); and

■ c. Revising paragraph (e)(4)(iv).

The revisions and addition read as follows:

§ 429.16 Central air conditioners and central air conditioning heat pumps.

* * * * *

(b) * * *

(3) * * *

(i) * * *

(B) The upper 90 percent confidence limit (UCL) of the true mean divided by 1.05, where:

$$UCL = \bar{x} + t_{.90}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.90}$ is the Student's t-Distribution Values for a 90 percent one-tailed confidence interval with n − 1 degrees of freedom (from appendix A). Round represented values of off-mode power consumption to the nearest watt.

(ii) * * *

(B) The lower 90 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{.90}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.90}$ is the Student's t-Distribution Values for a 90 percent one-tailed confidence interval with n − 1 degrees of freedom (from appendix A). Round represented values of EER, SEER, HSPF, EER2, SEER2, and HSPF2 to the nearest 0.05.

(iii) * * *

(A) * * *

(2) The lower 90 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{.90}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.90}$ is the Student's t-Distribution Values for a 90 percent one-tailed confidence interval with n − 1 degrees of freedom (from appendix A).

* * * * *

(e) * * *

(2) * * *

(vi) For variable-speed coil only systems; whether the represented value is based on non-communicating or communicating control.

* * * * *

(4) * * *

(iv) For blower coil systems, the airflow-control settings associated with full load cooling operation; the airflow-control settings or alternative instructions for setting fan speed to the speed upon which the rating is based; and whether the system varies blower speeds with outdoor air conditions;

* * * * *

■ 5. Section 429.19 is amended by:

■ a. Revising paragraphs (b)(2) and (3); and

■ b. Adding paragraph (c).

The revisions and addition read as follows:

§ 429.19 Dishwashers.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The estimated annual energy use in kilowatt hours per year (kWh/yr), the water consumption in gallons per cycle, and the capacity in number of place settings.

(3) Pursuant to § 429.12(b)(13), a certification report shall include the following additional product-specific information—

(i) The presence of a soil sensor, and if yes, the number of cycles required to reach calibration;

(ii) The water inlet temperature used for testing in degrees Fahrenheit (°F);

(iii) The cycle selected for the energy test and whether that cycle is soil-sensing if testing is performed using appendix C1 to subpart B of part 430 of this chapter and the cycles selected for the sensor heavy response, sensor medium response, and sensor light response and whether these cycles are soil-sensing if testing is performed using appendix C2 to subpart B of part 430 of this chapter;

(iv) The options selected for the energy test if testing is performed using appendix C1 to subpart B of part 430 of this chapter and the options selected for the sensor heavy response, sensor medium response, and sensor light response if testing is performed using appendix C2 to subpart B of part 430 of this chapter;

(v) The average cleaning index for the sensor heavy response, sensor medium response, and sensor light response cycles if testing is performed using appendix C2 to subpart B of part 430 of this chapter (*see* section 5.1 of appendix C2 for the calculation of per-cycle cleaning index for each test cycle);

(vi) Indication of whether Cascade Complete Powder or Cascade with the Grease Fighting Power of Dawn was used as the detergent formulation. When certifying dishwashers, other than water re-use dishwashers, according to appendix C1 to subpart B of part 430 of this chapter:

(A) Before July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification in conjunction with the detergent dosing methods specified in either section 2.5.2.1.1 or section 2.5.2.1.2 of appendix C1. Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1.

(B) Beginning July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification of newly certified basic models only in conjunction with the detergent dosing method specified in section 2.5.2.1.2 of appendix C1. Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1. Manufacturers may maintain existing basic model certifications made prior to July 17, 2023, consistent with the provisions of paragraph (b)(3)(vi)(A) of this section.

(vii) The presence of a built-in water softening system, and if yes, the energy use in kilowatt-hours and the water use in gallons required for each regeneration of the water softening system, the number of regeneration cycles per year, and data and calculations used to derive these values;

(viii) Whether the product is a water re-use system dishwasher, and if yes, the energy use in kilowatt-hours and water use in gallons required for a drain out event, the energy use in kilowatt-hours and water use in gallons required for a clean out event, the number of drain out events per year, the number of clean out events per year, the water fill volume to calculate detergent dosage in gallons, and data and calculations used to derive these values, as applicable; and

(ix) The presence of a built-in reservoir, and if yes, the manufacturer-stated reservoir capacity in gallons, the prewash fill water volume in gallons and the main wash fill water volume in gallons if testing is performed using appendix C1 to subpart B of part 430 of this chapter, and the reservoir water consumption in gallons per cycle.

(c) *Rounding requirements for representative values, including certified and rated values.*

(1) The represented value of estimated annual energy use must be rounded to the nearest kilowatt hour per year.

(2) The represented value of water consumption must be rounded to the nearest 0.1 gallon per cycle.

■ 6. Section 429.20 is amended by revising paragraphs (b) and (c) to read as follows:

§ 429.20 Residential clothes washers.

* * * * *

(b) *Certification reports.*

(1) The requirements of § 429.12 are applicable to residential clothes washers; and

(2) Pursuant to § 429.12(b)(13), a certification report shall contain the following public product-specific information:

(i) For residential clothes washers tested in accordance with appendix J: the energy efficiency ratio (EER) in pounds per kilowatt hour per cycle (lb/kWh/cycle), the water efficiency ratio (WER) in pounds per gallon per cycle (lb/gal/cycle), the clothes container capacity in cubic feet (cu ft), the corrected remaining moisture content (RMC) expressed as a percentage, the type of control system (automatic or semi-automatic), and the type of loading (top-loading or front-loading).

(ii) For residential clothes washers tested in accordance with appendix J2: the integrated modified energy factor (IMEF) in cu ft/kWh/cycle, the integrated water factor (IWF) in gal/cycle/cu ft, the clothes container capacity in cu ft, the corrected RMC expressed as a percentage, and the type of loading (top-loading or front-loading).

(3) Pursuant to 10 CFR 429.12(b)(13), a certification report must include the following additional product-specific information: a list of all cycle selections comprising the complete energy test cycle for each basic model and the test

cloth lot number used for certification testing.

(c) *Reported values.* Values reported pursuant to this subsection must be rounded as follows: MEF and IMEF to the nearest 0.01 cu ft/kWh/cycle, WF and IWF to the nearest 0.1 gal/cycle/cu ft, EER to the nearest 0.01 lb/kWh/cycle, WER to the nearest 0.01 lb/gal/cycle, RMC to the nearest 0.1 percentage point, and clothes container capacity to the nearest 0.1 cu ft.

■ 7. Section 429.24 is amended by:
■ a. Revising paragraph (a)(2) introductory text;
■ b. Adding paragraphs (a)(3) and (4);
■ c. Revising paragraph (b)(2); and
■ d. Adding paragraph (c).

The revisions and additions read as follows:

§ 429.24 Pool heaters.

(a) * * *

(2) For each basic model of pool heater, randomly select and test a sample of sufficient size to ensure that any represented value of the thermal efficiency or integrated thermal efficiency, as applicable, or other measure of energy consumption of a basic model for which consumers would favor higher values shall be less than or equal to the lower of: * * *

* * * * *

(3) When certifying integrated thermal efficiency, the represented value for input capacity of a gas-fired pool heater basic model reported in accordance with paragraph (b)(2) of this section must be the mean of the input capacities measured for each tested unit of the basic model, as determined in accordance with the test procedure in appendix P of subpart B of part 430 of this chapter.

(4) When certifying integrated thermal efficiency, the represented value of active electrical power of an electric pool heater basic model reported in accordance with paragraph (b)(2) of this section must be the mean of the electrical power measured for each tested unit of the basic model, as determined in accordance with the test procedure in appendix P of subpart B of part 430 of this chapter.

(b) * * *

(2) Pursuant to § 429.12(b)(13), include in each certification report the following public product-specific information:

(i) For gas-fired pool heaters: the input capacity in British thermal units per hour (Btu/h) and either the thermal efficiency as a percentage (%) (when certifying compliance with the energy conservation standards specified at § 430.32(k)(1)) or the integrated thermal efficiency as a percentage (%) (when certifying compliance with the energy conservation standards specified at § 430.32(k)(2)), as applicable.

(ii) For electric pool heaters (when certifying compliance with the energy conservation standards specified at § 430.32(k)(2)): the integrated thermal efficiency in percent (%) and the active electrical power in British thermal units per hour (Btu/h).

(c) *Reported values.* Round reported values pursuant to this subsection as follows: integrated thermal efficiency for gas-fired pool heaters to the nearest tenth of one percent, integrated thermal efficiency for electric pool heaters to the nearest one percent, input capacity of a gas-fired pool heater to the nearest 1,000 Btu/h, and active electrical power of an electric pool heater to the nearest 1,000 Btu/h.

§ 429.33 [Amended]

■ 8. Section 429.33 is amended by removing the text ''For each basic model of lamp and/or each basic model of non-consumer-replaceable SSL packaged with the ceiling fan light kit'' and adding in its place the text ''For each basic model of lamp, each basic model of consumer-replaceable SSL, and/or each basic model of non-consumer-replaceable SSL packaged with the ceiling fan light kit'' in paragraphs (b)(2)(ii)(A) and (b)(3)(ii)(B).

§ 429.36 [Amended]

■ 9. Section 429.36 is amended by:
■ a. Removing paragraph (b)(2)(i);
■ b. Redesignating paragraph (b)(2)(ii) as (b)(2)(i); and
■ c. Reserving paragraph (b)(2)(ii).
■ 10. Section 429.37 is amended by:
■ a. Revising paragraphs (b)(2) and (3); and
■ b. Adding paragraph (c)(1)(iv).

The revisions and addition read as follows:

§ 429.37 External power supplies.

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information:

(i) External power supplies: The average active mode efficiency as a percentage (%), no-load mode power consumption in watts (W), nameplate output power in watts (W), nameplate output voltage in volts (V), the specifications of the recommended or included output cord, and, if missing from the nameplate, the output current in amperes (A) of the basic model or the output current in amperes (A) of the highest- and lowest-voltage models within the external power supply design family.

(ii) Switch-selectable single-voltage external power supplies: The average active mode efficiency as a percentage (%) value, no-load mode power consumption in watts (W) using the lowest and highest selectable output voltages, the lowest and highest selectable output voltages in volts (V), nameplate output power in watts (W), the specifications of the recommended or included output cord, and, if missing from the nameplate, the output current in amperes (A).

(iii) Adaptive single-voltage external power supplies: The average active-mode efficiency as a percentage (%) at the highest and lowest nameplate output voltages, no-load mode power consumption in watts (W), nameplate output power in watts (W) at the lowest and highest nameplate output voltages, the lowest and highest nameplate output voltages in volts (V), the specifications of the recommended or included output cord, and, if missing from the nameplate, the output current in amperes (A) at the highest and lowest nameplate output voltages.

(iv) External power supplies that are exempt from no-load mode requirements under § 430.32(w)(5) of this chapter: A statement that the product is designed to be connected to a security or life safety alarm or surveillance system component, the average active-mode efficiency as a percentage (%), the nameplate output power in watts (W), the nameplate output voltage in volts (V), the specifications of the recommended or included output cord, and, if missing from the nameplate, the certification report must also include the output current in amperes (A) of the basic model or the output current in amperes (A) of the highest- and lowest-voltage models within the external power supply design family.

(3) Pursuant to § 429.12(b)(13), a certification report for external power supplies that are exempt from the energy conservation standards at § 430.32(w)(1)(ii) pursuant to § 430.32(w)(2) of this chapter must include the following additional information if, in aggregate, the total number of exempt EPSs sold as spare and service parts by the certifier exceeds 1,000 units across all models: The total number of units of exempt external power supplies sold during the most recent 12-calendar-month period ending on July 31, starting with the annual report due on September 1, 2017. The certification report must also include the exact timeframe (*e.g.,* from August 2016 to July 2017) of this most recent 12-calendar-month period.

(c) * * *

(1) * * *

(iv) The exact timeframe (*e.g.,* from August 2016 to July 2017) of this most recent 12-calendar-month period.

* * * * *

■ 11. Section 429.39 is amended by:

■ a. Revising paragraphs (a)(1), (a)(2)(ii), and (a)(2)(iii) introductory text;

■ b. Adding paragraphs (a)(2)(v) and (vi);

■ c. Revising paragraphs (b)(2) and (3); and

■ d. Adding paragraphs (b)(5) and (6);

The revisions and additions read as follows:

§ 429.39 Battery chargers.

(a) * * *

(1) *Represented values include:*

(i) For all battery chargers other than uninterruptible power supplies (UPSs) tested under appendix Y: The unit energy consumption (UEC) in kilowatt-hours per year (kWh/yr), battery discharge energy (E_{batt}) in watt hours (Wh), 24-hour energy consumption (E_{24}) in watt hours (Wh), maintenance mode power (P_m) in watts (W), standby mode power (P_{sb}) in watts (W), off mode power (P_{off}) in watts (W), and duration of the charge and maintenance mode test (t_{cd}) in hours (hrs);

(ii) For all wired and fixed-location wireless battery chargers other than uninterruptible power supplies (UPSs) tested under appendix Y1: Battery discharge energy (E_{batt}) in watt hours (Wh), active charge energy (E_a) in watt hours (Wh), maintenance mode power (Pm) in watts (W), no-battery mode power (P_{nb}) in watts (W), standby mode power (P_{sb}) in watts (W), off mode power (P_{off}) in watts (W), and duration of the charge and maintenance mode test (t_{cd}) in hours (hrs);

(iii) For all open-placement wireless battery chargers other than uninterruptible power supplies (UPSs) tested under appendix Y1: no-battery mode power (P_{nb}) in watts (W);

(iv) For UPSs: average load adjusted efficiency (Eff_{avg}).

(2) * * *

(ii) For each basic model of battery chargers other than UPSs tested under appendix Y, a sample of sufficient size must be randomly selected and tested to ensure that the represented value of UEC is greater than or equal to the higher of:

* * * * *

(iii) For each basic model of battery chargers other than UPSs tested under appendix Y, using the sample from paragraph (a)(2)(ii) of this section, calculate the represented values of each metric (*i.e.,* maintenance mode power (P_m), standby power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), 24-hour energy consumption (E_{24}), and duration of the charge and maintenance mode test (t_{cd})), where the represented value of the metric is:

* * * * *

(v) For each basic model of battery chargers other than UPSs tested under appendix Y1, a sample of sufficient size must be randomly selected and tested to ensure that the represented value of E_a for all wired and fixed-location wireless chargers (or the represented value of P_{nb} for all open-placement wireless chargers) is greater than or equal to the higher of:

(A) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; *n* is the number of samples; and x_i is the E_a (or P_{nb}, when applicable) of the *i*th sample; or,

(B) The upper 97.5-percent confidence limit (UCL) of the true mean divided by 1.05, where:

$$UCL = \bar{x} + t_{0.975}\left(\frac{s}{\sqrt{n}}\right)$$

and, $\bar{x}$ is the sample mean; *s* is the sample standard deviation; *n* is the number of samples; and $t_{0.975}$ is the Student's t-Distribution Values for a 97.5-percent one-tailed confidence interval with $n-1$ degrees of freedom (from appendix A of this subpart).

(vi) For each basic model of battery chargers other than UPSs tested under appendix Y1, using the sample from paragraph (a)(2)(v) of this section, calculate the applicable represented values of each metric (*i.e.,* maintenance mode power (P_m), no-battery mode power (P_{nb}), standby power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), and duration of the charge and maintenance mode test (t_{cd})), where the represented value of the metric is:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; *n* is the number of samples; and x_i is the measured value of the *i*th sample for the metric.

(b) * * *

(2) Pursuant to § 429.12(b)(13), when tested under appendix Y, a certification report must include the following product-specific information for all battery chargers other than UPSs: The nameplate battery voltage of the test battery in volts (V), the nameplate battery charge capacity of the test battery in ampere-hours (Ah), and the nameplate battery energy capacity of the test battery in watt-hours (Wh). A certification report must also include the represented values, as determined in paragraph (a) of this section for the maintenance mode power (P_m), standby mode power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), 24-hour energy consumption (E_{24}), active charge energy (E_a) (optional, as measured in accordance with appendix Y1) duration of the charge and maintenance mode test (t_{cd}), and unit energy consumption (UEC).

(3) Pursuant to § 429.12(b)(13), when tested under appendix Y, a certification report must include the following product-specific information for all battery chargers other than UPSs: The manufacturer and model of the test battery, and the manufacturer and model, when applicable, of the external power supply.

* * * * *

(5) Pursuant to § 429.12(b)(13), when tested under appendix Y1, a certification report must include the following product-specific information for all wired and fixed-location wireless battery chargers other than UPSs: The manufacturer and model of the test battery, the manufacturer and model, when applicable, of the external power supply, the nameplate battery voltage of the test battery in volts (V), the nameplate battery charge capacity of the test battery in ampere-hours (Ah), and the nameplate battery energy capacity of the test battery in watt-hours (Wh). A certification report must also include the represented values, as determined in paragraph (a) of this section for the maintenance mode power (P_m), no-battery mode power (P_{nb}), standby mode power (P_{sb}), off mode power (P_{off}), battery discharge energy (E_{batt}), 24-hour energy consumption (E_{24}), active charge energy (E_a), and duration of the charge and maintenance mode test (t_{cd}).

(6) Pursuant to § 429.12(b)(13), when tested under appendix Y1, a certification report must include the following product-specific information for all open-placement wireless battery chargers other than UPSs: The manufacturer and model, when applicable, of the external power supply. A certification report must also include the represented values, as determined in paragraph (a) of this section for the no-battery mode power (P_{nb}).

■ 12. Section 429.43 is amended by:

■ a. Revising the section heading;

■ b. Revising paragraphs (b)(2)(v), (vi), and (ix);

■ c. Adding paragraphs (b)(2)(xi) and (b)(3)(iii);

■ d. Revising paragraphs (b)(4)(vi), (vii), and (viii); and
■ e. Adding paragraphs (b)(4)(x) and (b)(6).

The revisions and additions read as follows:

§ 429.43 Commercial heating, ventilating, air conditioning (HVAC) equipment.

* * * * *

(b) * * *

(2) * * *

(v) Single package vertical air conditioners:

(A) When certifying compliance with an EER standard: The energy efficiency ratio (EER in British thermal units per Watt-hour (Btu/Wh)), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with an IEER standard: the integrated energy efficiency ratio (IEER in British thermal units per Watt-hour (Btu/Wh)), the rated cooling capacity in British thermal units per hour (Btu/h), and the rated airflow in standard cubic feet per minute (SCFM). For units with rated cooling capacity <65,000 Btu/h: whether the unit is weatherized or non-weatherized; and if non-weatherized, the airflow rate of outdoor ventilation air which is drawn in and conditioned as determined in accordance with § 429.134(x)(3) of this chapter, while the equipment is operating with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment.

(vi) Single package vertical heat pumps:

(A) When certifying compliance with an EER standard: the energy efficiency ratio (EER in British thermal units per Watt-hour (Btu/Wh)), and the coefficient of performance (COP), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with an IEER standard: the integrated energy efficiency ratio (IEER in British thermal units per Watt-hour (Btu/Wh)), and the coefficient of performance (COP), the rated cooling capacity in British thermal units per hour (Btu/h) and the rated airflow in standard cubic feet per minute (SCFM). For units with cooling capacity <65,000 Btu/h: whether the unit is weatherized or non-weatherized; and if non-weatherized, the airflow rate of outdoor ventilation air which is drawn in and conditioned as determined in accordance with § 429.134(x)(3) of this chapter, while the equipment is operating with the same drive kit and motor settings used to determine the certified efficiency rating of the equipment.

* * * * *

(ix) Computer room air-conditioners:

(A) When certifying compliance with a SCOP standard: The net sensible cooling capacity in British thermal units per hour (Btu/h), the net cooling capacity in British thermal units per hour (Btu/h), the configuration (upflow/downflow), economizer presence (yes or no), condenser medium (air, water, or glycol-cooled), sensible coefficient of performance (SCOP), and rated airflow in standard cubic feet per minute (SCFM).

(B) When certifying compliance with an NSenCOP standard: The net sensible cooling capacity in British thermal units per hour (Btu/h), the net total cooling capacity in British thermal units per hour (Btu/h), whether the basic model is split system or single-package, the configuration (downflow, upflow ducted, upflow non-ducted, horizontal flow, ceiling-mounted ducted, ceiling-mounted non-ducted), fluid economizer presence (yes or no), condenser heat rejection medium (air, water, or glycol-cooled), net sensible coefficient of performance (NSenCOP), rated airflow in standard cubic feet per minute (SCFM), and the refrigerant used to determine the represented values.

* * * * *

(xi) Direct-expansion dedicated outdoor air systems:

(A) When certifying compliance with an ISMRE2 standard: the integrated seasonal moisture removal efficiency 2 (ISMRE2 in lbs. of moisture per kilowatt-hour (lb/kWh)), the rated moisture removal capacity at Standard Rating Condition A according to appendix B to subpart F of part 431 of this chapter (MRC in lbs of moisture per hour (lb/h)), and the rated supply airflow rate for 100% outdoor air applications (Q_{SA} in standard cubic feet per minute).

(B) When certifying compliance with an ISCOP2 standard: the integrated seasonal coefficient of performance 2 (ISCOP2 in Watts of heating per Watts of power input (W/W)).

(C) The configuration of the basic model number (*i.e.,* ''single-package'' or ''split system'') shall also be provided.

(3) * * *

(iii) For direct-expansion dedicated outdoor air systems with ventilation energy recovery systems, method of determination of the EATR, sensible effectiveness, and latent effectiveness of the ventilation energy recovery system (name and version of certified performance modeling software or if the device was directly tested). The test method (*i.e.,* Option 1, or Option 2) for units rated based on testing and motor control settings (including rotational speed) for energy recovery wheels shall also be provided.

(4) * * *

(vi) Single package vertical air-conditioners:

(A) When certifying compliance with an EER standard: Any additional testing instructions, if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and which, if any, special features were included in rating the basic model.

(B) When certifying compliance with an IEER standard: Compressor break-in period duration; rated indoor airflow in standard cubic feet per minute (SCFM); frequency or control set points including the required dip switch/control settings for step or variable speed components (*e.g.,* compressors, VFDs); rated indoor airflow in SCFM for each part-load point used in the IEER calculation and any special instructions required to obtain operation at each part-load point, such as frequency or control set points including dip switch/control settings for step or variable speed components (*e.g.,* compressors, VFDs); a statement whether the model will operate at test conditions without manufacturer programming; outdoor air-side attachments used for testing; any additional testing instructions, if applicable; and if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; any additional applicable testing instructions, are also required.

(vii) Single package vertical heat pumps:

(A) When certifying compliance with an EER standard: Any additional testing instructions, if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and which, if any,

special features were included in rating the basic model.

(B) When certifying compliance with an IEER standard: The rated heating capacity in British thermal units per hour (Btu/h); compressor break-in period duration; rated indoor airflow in standard cubic feet per minute (SCFM) (in cooling mode); rated airflow in SCFM in heating mode if the unit is designed to operate with different airflow rates for cooling and heating mode; frequency or control set points including the required dip switch/control settings for step or variable speed components (*e.g.,* compressors, VFDs); rated indoor airflow in SCFM for each part-load point used in the IEER calculation and any special instructions required to obtain operation at each part-load point, such as frequency or control set points including dip switch/control settings for step or variable speed components (*e.g.,* compressors, VFDs); a statement whether the model will operate at test conditions without manufacturer programming; outdoor air-side attachments used for testing; any additional testing instructions, if applicable; and if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; or any additional applicable testing instructions, are also required.

(viii) Computer room air-conditioners:

(A) When certifying compliance with a SCOP standard: Any additional testing instructions, if applicable; and which, if any, special features were included in rating the basic model.

(B) When certifying compliance with a NSenCOP standard: Compressor break-in period duration; frequency or control set points including the required dip switch/control settings for step or variable components (*e.g.,* compressors, VFDs); a statement whether the model will operate at test conditions without manufacturer programming; any additional testing instructions, if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating.

* * * * *

(x) Direct-expansion dedicated outdoor air systems:

(A) *For units without ventilation energy recovery systems:* water flow rate in gallons per minute (gpm) for water-cooled and water-source units; rated ESP in inches of water column for the supply air stream; frequency or control set points for variable speed components (*e.g.,* compressors, VFDs); required dip switch/control settings for step or variable components (*e.g.,* reheat or head pressure control valves); a statement whether the model will operate at test conditions without manufacturer programming; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and any additional testing instructions specified in appendix B to subpart F of part 431 of this chapter, if applicable (*e.g.,* supply air dry bulb temperatures for ISMRE2 tests, equipment settings for airflow, installation priority for split-system units, defrost control settings for air-source heat pump units, break-in period, or condenser head pressure controls.

(B) *For units with ventilation energy recovery systems,* the requirements in paragraph (b)(4)(x)(A) of this section apply, in addition to: rated ESP in inches of water column for the return air stream; exhaust air transfer ratio at the rated supply airflow rate and a neutral pressure difference between return and supply airflow (EATR as a percent value); sensible and latent effectiveness of the ventilation energy recovery system at 75% of the nominal supply airflow and zero pressure differential in accordance with the DOE test procedure in appendix B to subpart F of part 431 of this chapter; sensible and latent effectiveness of the ventilation energy recovery system at 100% of the nominal supply airflow and zero pressure differential in accordance with the DOE test procedure in appendix B to subpart F of part 431 of this chapter; and any additional testing instructions, if applicable (*e.g.,* deactivation of VERS or VERS bypass in accordance with appendix B to subpart F of part 431 of this chapter).

* * * * *

(6) Basic and individual model numbers. The basic model number and individual model number(s) required to be reported under § 429.12(b)(6) must consist of the following:

(i) For computer room air-conditioners:

Single-package or split system?	Basic model number	Individual model number(s)	
		1	2
Single-Package	Number unique to the basic model	Package	N/A.
Split System	Number unique to the basic model	Indoor Unit	Outdoor Unit.

(ii) For direct-expansion dedicated outdoor air systems:

Equipment configuration	Basic model number	Individual model number(s)	
		1	2
Single-Package	Number unique to the basic model	Package	N/A.
Split System	Number unique to the basic model	Outdoor Unit	Indoor Unit.

* * * * *

■ 13. Section 429.44 is amended by:

■ a. Revising paragraph (c)(2)(i);

■ b. Redesignating paragraph (c)(2)(vi) as (c)(2)(viii); and

■ c. Adding new paragraphs (c)(2)(vi) and (vii).

The revisions and additions read as follows:

§ 429.44 Commercial water heating equipment.

* * * * *

(c) * * *

(2) * * *

(i) Commercial electric storage water heaters with storage capacity less than or equal to 140 gallons: The standby loss in percent per hour (%/h); the rated input in kilowatts (kW), and the measured storage volume in gallons (gal).

* * * * *

(vi) Commercial electric instantaneous water heaters with storage capacity greater than or equal to 10 gallons (excluding storage-type instantaneous water heaters with storage capacity greater than 140 gallons): The thermal efficiency in percent (%); the standby loss in percent per hour (%/h); the rated input in kilowatts (kW); and the measured storage volume in gallons (gal). For equipment that does not meet the definition of ''storage-type instantaneous water heater'' (as set forth in 10 CFR 431.102), the following must also be included in the certification report: whether the measured storage volume is determined using a weight-based test in accordance with § 431.106 of this chapter or the calculation-based method in accordance with § 429.72; whether the water heater will initiate heating element operation based on a temperature-controlled call for heating that is internal to the water heater (Yes/No); whether the water heater is equipped with an integral pump purge functionality (Yes/No); and if the water heater is equipped with integral pump purge, the default duration of the pump off delay (minutes).

(vii) Commercial electric instantaneous water heaters with storage capacity less than 10 gallons: The thermal efficiency in percent (%); the measured storage volume in gallons (gal); the rated input in kilowatts (kW); and whether the measured storage volume is determined using a weight-based test in accordance with § 431.106 of this chapter or the calculation-based method in accordance with § 429.72.

* * * * *

■ 14. Section 429.45 is amended by:

■ a. Revising paragraphs (a)(2)(ii) and (b)(2); and

■ b. Adding paragraph (b)(3).

The revisions and addition read as follows:

§ 429.45 Automatic commercial ice makers.

(a) * * *

(2) * * *

(ii) The upper 95 percent confidence limit (UCL) of the true mean divided by 1.10, where:

$$UCL = \bar{x} - t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.95}$ is the Student's t-Distribution Values for a 95 percent one-tailed confidence interval with n − 1 degrees of freedom (from appendix A to this subpart).

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The energy use in kilowatt hours per 100 pounds of ice (kWh/100 lb), the condenser water use in gallons per 100 pounds of ice (gal/100 lb), the harvest rate in lb/24 h, the type of cooling, and the equipment type.

(3) For reporting, round harvest rate to the nearest 1 lb/24 h for harvest rates above 50 lb/24 h; round harvest rate to the nearest 0.1 lb/24 h for harvest rates less than or equal to 50 lb/24 h; round condenser water use to the nearest 1 gal/100 lb; and round energy use to the nearest 0.01 kWh/100 lb.

■ 15. Section 429.53 is amended by revising paragraph (b) to read as follows:

§ 429.53 Walk-in coolers and walk-in freezers.

* * * * *

(b) *Certification reports.*

(1) The requirements of § 429.12 apply to manufacturers of walk-in cooler and walk-in freezer panels, doors, and refrigeration systems, and;

(2) Pursuant to § 429.12(b)(13), a certification report must include the following public product-specific information:

(i) For display and non-display doors:

(A) The door type;

(B) R-value of the door insulation (as applicable);

(C) A declaration that the manufacturer has incorporated the applicable design requirements;

(D) For transparent reach-in display doors and windows, the glass type of the doors and windows (*e.g.,* double-pane with heat reflective treatment, triple-pane glass with gas fill);

(E) Power draw of the antisweat heater in watts per square foot of door opening;

(F) Door energy consumption in kilowatt-hours per day;

(G) Rated surface area in square feet; and

(H) For doors with anti-sweat heater controls, the temperature and/or humidity conditions at which the anti-sweat heater turns on in degrees Fahrenheit.

(ii) For panels: The R-value of the insulation.

(iii) For refrigeration systems:

(A) The installed motor's functional purpose (*i.e.,* evaporator fan motor or condenser fan motor), its rated horsepower, and a declaration that the manufacturer has incorporated the applicable walk-in-specific design requirements into the motor;

(B) The refrigeration system AWEF and net capacity in BTU/h;

(C) The configuration tested for certification (*e.g.,* condensing unit only, unit cooler only, single-packaged dedicated system matched-pair; attached split-system; or detachable single-packaged system);

(D) Whether an indoor dedicated condensing unit is also certified as an outdoor dedicated condensing unit and, if so, the basic model number for the outdoor dedicated condensing unit; and

(E) Whether the certified basic model is designed for use with CO_2 as a refrigerant.

(3) Pursuant to § 429.12(b)(13), a certification report must include the following non-public product-specific information in addition to the information listed in paragraph (b)(2) of this section:

(i) For display and non-display doors:

(A) The rated power of each light, heater wire, and/or other electricity consuming device associated with each basic model of display and non-display door; and whether such device(s) has a timer, control system, or other demand-based control reducing the device's power consumption; and

(B) The conduction load through the door in Btu/h.

(ii) For refrigeration systems:

(A) Whether the dedicated condensing system using flooded head pressure controls; and

(B) The compressor break-in period, if used.

(4) Pursuant to § 429.12(b)(13), a certification report must include supplemental information submitted in PDF format. The equipment-specific supplemental information must be consistent with the equipment's installation or operating instructions; include any additional testing and testing set up instructions (*e.g.,* charging instructions) for the basic model; identify all special features that were included in rating the basic model; include all other information (*e.g.,* any specific settings or controls) necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (*e.g.,* operating manuals and/or installation instructions) for DOE to consider when performing testing under appendix C and appendix C1 to subpart R of part 431.

■ 16. Section 429.59 is amended by:

■ a. Revising paragraphs (b)(2)(i), (ii), and (iii);

■ b. Removing paragraphs (b)(3)(i), (ii), and (iii); and

■ c. Redesignating paragraph (b)(3)(iv) as (b)(3)(i), and reserving paragraph (b)(3)(ii).

The revisions read as follows:

§ 429.59 Pumps.

* * * * *

(b) * * *

(2) * * *

(i) For a pump subject to the test methods prescribed in section III of appendix A to subpart Y of part 431 of this chapter: PEI_{CL}; pump total head in feet (ft.) at BEP and nominal speed; volume per unit time (flow rate) in gallons per minute (gpm) at BEP and nominal speed; the nominal speed of rotation in revolutions per minute (rpm); calculated driver power input at each load point i (Pini), corrected to nominal speed, in horsepower (hp); full impeller diameter in inches (in.); pump efficiency at BEP in percent (%); PER_{CL}; and for RSV and ST pumps, the number of stages tested.

(ii) For a pump subject to the test methods prescribed in section IV or V of appendix A to subpart Y of part 431 of this chapter: PEI_{CL}; pump total head in feet (ft.) at BEP and nominal speed; volume per unit time (flow rate) in gallons per minute (gpm) at BEP and nominal speed; the nominal speed of rotation in revolutions per minute (rpm); driver power input at each load point i (Pini), corrected to nominal speed, in horsepower (hp); full impeller diameter in inches (in.); whether the PEI_{CL} is calculated or tested; pump efficiency at BEP in percent (%); PER_{CL}; and for RSV and ST pumps, number of stages tested.

(iii) For a pump subject to the test methods prescribed in section VI or VII of appendix A to subpart Y of part 431 of this chapter: PEI_{VL}; pump total head in feet (ft.) at BEP and nominal speed; volume per unit time (flow rate) in gallons per minute (gpm) at BEP and nominal speed; the nominal speed of rotation in revolutions per minute (rpm); driver power input (measured as the input power to the driver and controls) at each load point i (Pini), corrected to nominal speed, in horsepower (hp); full impeller diameter in inches (in.); whether the PEI_{VL} is calculated or tested; pump efficiency at BEP in percent (%); PER_{VL}; and for RSV and ST pumps, the number of stages tested.

* * * * *

■ 17. Section 429.62 is amended by:

■ a. Revising paragraph (b)(2); and

■ b. Adding paragraph (b)(3).

The revision and addition reads as follows:

§ 429.62 Portable air conditioners.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The CEER in Btu/Wh, the seasonally adjusted cooling capacity in British thermal units per hour (Btu/h), the duct configuration used for testing (single-duct or dual-duct), the ability to operate in both configurations (yes or no), presence of heating function, and primary condensate removal feature (auto-evaporation, gravity drain, removable internal collection bucket, or condensate pump).

(3) Pursuant to § 429.12(b)(13), a certification report shall include the following additional public product-specific information: whether the basic model is variable-speed (yes or no), and if yes; the full-load seasonally adjusted cooling capacity (SACC_Full), in British thermal units per hour (Btu/h).

■ 18. Section 429.65 is amended by adding paragraphs (e) and (f) to read as follows:

§ 429.65 Dedicated-purpose pool pump motors.

* * * * *

(e) *Certification reports for dedicated purpose pool pump motors.*

(1) The requirements of § 429.12 apply to dedicated-purpose pool pump motors.

(2) Pursuant to § 429.12(b)(13), a certification report must include the following public, product-specific information for each basic model:

(i) The dedicated-purpose pool pump motor total horsepower as described at 10 CFR 429.65(c)(1)(v);

(ii) For all basic models with total horsepower less than 0.5 THP, the full-load efficiency in percent (%) as described at 10 CFR 429.65; and

(iii) For all basic models with total horsepower greater than or equal to 0.5 THP: a statement confirming that the motor is a variable speed control dedicated purpose pool pump motor, as defined at 10 CFR 431.483; and a statement regarding whether freeze protection is shipped enabled or disabled; for dedicated-purpose pool pump motors distributed in commerce with freeze protection controls enabled: The default dry-bulb air temperature setting (in °F), default run time setting (in minutes), maximum operating speed (in revolutions per minute, or rpm), and default motor speed in freeze protection mode (in revolutions per minute, or rpm).

(f) *Rounding Requirements.*

(1) Round dedicated-purpose-pool pump motor total horsepower to the nearest hundredth of a THP;

(2) Round full-load efficiency to the nearest tenth of a percent; and

(3) For dedicated-purpose pool pump motor basic models with total horsepower greater than or equal to 0.5 THP and distributed in commerce with freeze protection controls enabled, round the dry-bulb temperature setting, run time setting, maximum operating speed, and default motor speed in freeze protection mode to the nearest whole number.

■ 19. Section 429.67 is amended by:

■ a. Revising paragraphs (c)(2)(ii)(A)(2), (f)(2), and (f)(3)(i) and (ii); and

■ b. Adding paragraph (f)(4).

The revisions and addition read as follows:

§ 429.67 Air-cooled, three-phase, small commercial package air conditioning and heating equipment with a cooling capacity of less than 65,000 British thermal units per hour and air-cooled, three-phase, variable refrigerant flow multi-split air conditioners and heat pumps with a cooling capacity of less than 65,000 British thermal units per hour.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(A) * * *

(2) The lower 90 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{.90}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.90}$ is the Student's t-Distribution Values for a 90 percent one-tailed confidence interval with n − 1 degrees of freedom (from appendix A of this part).

* * * * *

(f) * * *

(2) Pursuant to § 429.12(b)(13), for each individual model (for single-package systems) or individual combination (for split-systems, including outdoor units with no match and ''tested combinations'' for multi-split, multi-circuit, and multi-head mini-split systems), a certification report must include the following public equipment-specific information:

(i) Commercial package air conditioning equipment that is air-cooled with a cooling capacity of less than 65,000 Btu/h (3-Phase):

(A) When certifying compliance with a SEER standard: The seasonal energy efficiency ratio (SEER in British thermal units per Watt-hour (Btu/Wh)), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with a SEER2 standard: the seasonal energy efficiency ratio 2 (SEER2 in British thermal units per Watt-hour (Btu/Wh)) and the rated cooling capacity in British thermal units per hour (Btu/h).

(ii) Commercial package heating equipment that is air-cooled with a cooling capacity of less than 65,000 Btu/h (3-Phase):

(A) When certifying compliance with an HSPF standard: The seasonal energy efficiency ratio (SEER in British thermal units per Watt-hour (Btu/Wh)), the heating seasonal performance factor (HSPF in British thermal units per Watt-hour (Btu/Wh)), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with an HSPF2 standard: the seasonal energy efficiency ratio 2 (SEER2 in British thermal units per Watt-hour (Btu/Wh)), the heating seasonal performance factor 2 (HSPF2 in British thermal units per Watt-hour (Btu/Wh)) and the rated cooling capacity in British thermal units per hour (Btu/h).

(iii) Variable refrigerant flow multi-split air conditioners that are air-cooled with rated cooling capacity of less than 65,000 Btu/h (3-Phase):

(A) When certifying compliance with a SEER standard: The seasonal energy efficiency ratio (SEER in British thermal units per Watt-hour (Btu/Wh)), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with a SEER2 standard: the seasonal energy efficiency ratio 2 (SEER2 in British thermal units per Watt-hour (Btu/Wh)) and the rated cooling capacity in British thermal units per hour (Btu/h).

(iv) Variable refrigerant flow multi-split heat pumps that are air-cooled with rated cooling capacity of less than 65,000 Btu/h (3-Phase):

(A) When certifying compliance with an HSPF standard: The seasonal energy efficiency ratio (SEER in British thermal units per Watt-hour (Btu/Wh)), the heating seasonal performance factor (HSPF in British thermal units per Watt-hour (Btu/Wh)), and the rated cooling capacity in British thermal units per hour (Btu/h).

(B) When certifying compliance with an HSPF2 standard: the seasonal energy efficiency ratio 2 (SEER2 in British thermal units per Watt-hour (Btu/Wh)), the heating seasonal performance factor 2 (HSPF2 in British thermal units per Watt-hour (Btu/Wh)) and the rated cooling capacity in British thermal units per hour (Btu/h).

(3) * * *

(i) Air cooled commercial package air conditioning equipment with a cooling capacity of less than 65,000 Btu/h (3-phase): The nominal cooling capacity in British thermal units per hour (Btu/h); rated airflow in standard cubic feet per minute (SCFM) for each fan coil; rated static pressure in inches of water; refrigeration charging instructions (*e.g.,* refrigerant charge, superheat and/or subcooling temperatures); frequency or control set points for variable speed components (*e.g.,* compressors, VFDs); required dip switch/control settings for step or variable components; a statement whether the model will operate at test conditions without manufacturer programming; any additional testing instructions, if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and which, if any, special features were included in rating the basic model. Additionally, when certifying compliance with a SEER2 standard, the supplemental information must also include: for models of outdoor units with no match, the following characteristics of the indoor coil: the face area, the coil depth in the direction of airflow, the fin density (fins per inch), the fin material, the fin style, the tube diameter, the tube material, and the numbers of tubes high and deep.

(ii) Commercial package heating equipment that is air-cooled with a cooling capacity of less than 65,000 Btu/h (3-phase): The nominal cooling capacity in British thermal units per hour (Btu/h); rated heating capacity in British thermal units per hour (Btu/h); rated airflow in standard cubic feet per minute (SCFM) for each fan coil; rated static pressure in inches of water; refrigeration charging instructions (*e.g.,* refrigerant charge, superheat and/or subcooling temperatures); frequency or control set points for variable speed components (*e.g.,* compressors, VFDs); required dip switch/control settings for step or variable components; a statement whether the model will operate at test conditions without manufacturer programming; any additional testing instructions, if applicable; if a variety of motors/drive kits are offered for sale as options in the basic model to account for varying installation requirements, the model number and specifications of the motor (to include efficiency, horsepower, open/closed, and number of poles) and the drive kit, including settings, associated with that specific motor that were used to determine the certified rating; and which, if any, special features were included in rating the basic model. Additionally, when certifying compliance with an HSPF2 standard, the supplemental information must also include: for models of outdoor units with no match, the following characteristics of the indoor coil: the face area, the coil depth in the direction of airflow, the fin density (fins per inch), the fin material, the fin style, the tube diameter, the tube material, and the numbers of tubes high and deep.

* * * * *

(4) The basic model number and individual model number(s) required to be reported under § 429.12(b)(6) must consist of the following:

Equipment type	Basic model number	Individual model number(s)		
		1	2	3
Single-Package (including Space-Constrained).	Number unique to the basic model.	Package	N/A	N/A.
Single-Split System (including Space-Constrained and SDHV).	Number unique to the basic model.	Outdoor Unit	Indoor Unit	If applicable—Air Mover (could be same as indoor unit if fan is part of indoor unit model number).
Multi-Split, Multi-Circuit, and Multi-Head Mini-Split System (including Space-Constrained and SDHV).	Number unique to the basic model.	Outdoor Unit	When certifying a basic model based on tested combination(s): * * * When certifying an individual combination: Each indoor units paired with the outdoor unit.	If applicable—When certifying a basic model based on tested combination(s): * * *. When certifying an individual combination: Each air movers paired with the outdoor unit.
Outdoor Unit with No Match	Number unique to the basic model.	Outdoor Unit	N/A	N/A.

■ 20. Section 429.68 is amended by adding paragraph (b) to read as follows:

§ 429.68 Air cleaners.

* * * * *

(b) *Certification reports.*

(1) The requirements of § 429.12 are applicable to air cleaners; and

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information:

(i) Smoke clean air delivery rate (CADR) in cubic feet per minute (cfm);

(ii) Dust CADR in cfm;

(iii) Pollen CADR in cfm;

(iv) $PM_{2.5}$ CADR in cfm;

(v) Annual energy consumption in kilowatt hours per year (kWh/yr);

(vi) Integrated energy factor in $PM_{2.5}$ CADR per watt; and

(vii) Room size in square feet.

■ 21. Section 429.70 is amended by revising Table 2 to paragraph (c)(5)(vi)(B) to read as follows:

§ 429.70 Alternative methods for determining energy efficiency and energy use.

* * * * *

(c) * * *

(5) * * *

(vi) * * *

(B) * * *

TABLE 2 TO PARAGRAPH (c)(5)(vi)(B)

Equipment	Metric	Applicable tolerance
Commercial Packaged Boilers	Combustion Efficiency	5% (0.05)
	Thermal Efficiency	5% (0.05)
Commercial Water Heaters or Hot Water Supply Boilers	Thermal Efficiency	5% (0.05)
	Standby Loss	10% (0.1)
Unfired Storage Tanks	R-Value	10% (0.1)
Air-Cooled, Split and Packaged ACs and HPs Greater than or Equal to 65,000 Btu/h Cooling Capacity and Less than 760,000 Btu/h Cooling Capacity.	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
Water-Cooled, Split and Packaged ACs and HPs, All Cooling Capacities.	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
Evaporatively-Cooled, Split and Packaged ACs and HPs, All Capacities.	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
Water-Source HPs, All Capacities	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
Single Package Vertical ACs and HPs	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
Packaged Terminal ACs and HPs	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
Variable Refrigerant Flow ACs and HPs (Excluding Air-Cooled, Three-phase with Less than 65,000 Btu/h Cooling Capacity).	Energy Efficiency Ratio	5% (0.05)
	Coefficient of Performance	5% (0.05)
	Integrated Energy Efficiency Ratio	10% (0.1)
Computer Room Air Conditioners	Sensible Coefficient of Performance	5% (0.05)
	Net Sensible Coefficient of Performance	5% (0.05)
Direct Expansion-Dedicated Outdoor Air Systems	Integrated Seasonal Coefficient of Performance 2	10% (0.1)
	Integrated Seasonal Moisture Removal Efficiency 2	10% (0.1)
Commercial Warm-Air Furnaces	Thermal Efficiency	5% (0.05)
Commercial Refrigeration Equipment	Daily Energy Consumption	5% (0.05)

* * * * *

■ 22. Section 429.72 is amended by revising paragraph (e) to read as follows:

§ 429.72 Alternative methods for determining non-energy ratings.

* * * * *

(e) *Commercial instantaneous water heaters (other than storage-type instantaneous water heaters) and hot water supply boilers.* The storage volume of a commercial instantaneous water heater (other than storage-type instantaneous water heaters) or a hot

water supply boiler basic model may be determined by performing a calculation of the stored water volume based upon design drawings (including computer-aided design (CAD) models) or physical dimensions of the basic model. Any value of storage volume of a basic model reported to DOE in a certification of compliance in accordance with § 429.44(c)(2)(iv)–(vii) or § 429.44(c)(3)(iv)–(vii) (as applicable) must be calculated using the design drawings or physical dimensions, or measured as per the applicable provisions in the test procedures in § 431.106 of this chapter. Calculations to determine storage volume must include all water contained within the water heater from the inlet connection(s) to the outlet connection(s). The storage volume of water contained in the water heater must then be computed in gallons.

■ 23. Section 429.134 is amended by adding paragraph (q)(5) to read as follows:

§ 429.134 Product-specific enforcement provisions.

* * * * *

(q) * * *

(5) *Break-in period for refrigeration systems.* DOE will perform a compressor break-in period during assessment or enforcement testing using a duration specified by the manufacturer, not to exceed 20 hours, only if a break-in period duration is provided in the certification report.

* * * * *

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 24. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 25. Amend § 431.2 by revising the definition of ''Covered equipment'' to read as follows:

§ 431.2 Definitions.

* * * * *

Covered equipment means any electric motor, as defined in § 431.12; commercial heating, ventilating, and air conditioning, and water heating product (HVAC & WH product), as defined in § 431.2; commercial refrigerator, freezer, or refrigerator-freezer, as defined in § 431.62; automatic commercial ice maker, as defined in § 431.132; commercial clothes washer, as defined in § 431.152; fan or blower, as defined in § 431.172; distribution transformer, as defined in § 431.192; illuminated exit sign, as defined in § 431.202; traffic signal module or pedestrian module, as defined in § 431.222; unit heater, as defined in § 431.242; commercial prerinse spray valve, as defined in § 431.262; mercury vapor lamp ballast, as defined in § 431.282; refrigerated bottled or canned beverage vending machine, as defined in § 431.292; walk-in cooler and walk-in freezer, as defined in § 431.302; metal halide ballast and metal halide lamp fixture, as defined in § 431.322; compressor, as defined in § 431.342; small electric motor, as defined in § 431.442; pump, as defined in § 431.462; and dedicated purpose pool pump motor, as defined in § 431.483.

* * * * *

■ 26. Amend § 431.305 by:

■ a. Revising paragraph (a)(1);

■ b. Revising paragraphs (b)(1)(i) and (ii), and adding new paragraph (b)(1)(iii);

■ c. Revising paragraphs (c)(1)(iv) and (v); and

■ d. Adding paragraph (c)(1)(vi).

The revisions and additions read as follows.

§ 431.305 Walk-in cooler and walk-in freezer labeling requirements.

(a) * * *

(1) Required information. The permanent nameplate of a walk-in cooler or walk-in freezer panel for which standards are prescribed in § 431.306 must be marked clearly with the following information:

(i) The panel brand or manufacturer;

(ii) The date of manufacture; and

(iii) One of the following statements, as appropriate:

(A) ''This panel is designed and certified for use in walk-in cooler applications.''

(B) ''This panel is designed and certified for use in walk-in freezer applications.''

(C) ''This panel is designed and certified for use in walk-in cooler and walk-in freezer applications.''

* * * * *

(b) * * *

(1) * * *

(i) The door brand or manufacturer;

(ii) For non-display doors manufactured with foam insulation, the date of manufacture; and

(iii) One of the following statements, as appropriate:

(A) ''This door is designed and certified for use in walk-in cooler applications.''

(B) ''This door is designed and certified for use in walk-in freezer applications.''

(C) ''This door is designed and certified for use in walk-in cooler and walk-in freezer applications.''

* * * * *

(c) * * *

(1) * * *

(iv) If the refrigeration system is a dedicated condensing refrigeration system, and is not designated for outdoor use, the statement, ''Indoor use only'' (for a matched pair this must appear on the condensing unit);

(v) The following statement, as appropriate: ''Only CO_2 is approved as a refrigerant for this system;'' and

(vi) One of the following statements, as appropriate:

(A) ''This refrigeration system is designed and certified for use in walk-in cooler applications.''

(B) ''This refrigeration system is designed and certified for use in walk-in freezer applications.''

(C) ''This refrigeration system is designed and certified for use in walk-in cooler and walk-in freezer applications.''

* * * * *

[FR Doc. 2023–19146 Filed 9–28–23; 8:45 am]

BILLING CODE 6450–01–P



FEDERAL REGISTER

Vol. 88 Friday,
No. 188 September 29, 2023

Part III

Federal Communications Commission

47 CFR Part 2
Implementation of the Final Acts of the 2019 World Radiocommunication Conference; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 23–121, FCC 23–26; FR ID 151241]

Implementation of the Final Acts of the 2019 World Radiocommunication Conference

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) makes non-substantive, editorial revisions to the Commission's Table of Frequency Allocations (Allocation Table), primarily to reflect decisions from the Final Acts of the World Radiocommunication Conference 2019 (*WRC–19 Final Acts*). The purpose of this administrative action is to revise the Allocation Table by updating the International Table of Frequency Allocations (International Table) portion of the Allocation Table to reflect the International Telecommunication Union's (ITU's) Table of Frequency Allocations in its Radio Regulations (Edition of 2020) (Radio Regulations), and by making updates and corrections in the United States Table of Frequency Allocations (U.S. Table) portion of the Allocation Table.

DATES: Effective October 30, 2023.

FOR FURTHER INFORMATION CONTACT: Patrick Forster, Office of Engineering and Technology, 202–418–7061, *Patrick.Forster@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order* in ET Docket No. 23–121, FCC 23–26, adopted April 18, 2023, and released April 21, 2023. The full text of this document is available on the FCC's website at *https://docs.fcc.gov/public/attachments/FCC-23-26A1.pdf.* To request materials in accessible format for people with disabilities, send an email to *FCC504@fcc.gov* (mail to: *FCC504@fcc.gov*), or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis

By this action, the Commission takes the necessary steps to implement certain decisions of the World Radiocommunication Conference held in 2019 (WRC–19). The Commission revises the Allocation Table by updating the International Table of Frequency Allocations (International Table) portion to reflect the International Telecommunication Union's (ITU) Table of Frequency Allocations in its Radio Regulations (Edition of 2020) (Radio Regulations) and by making updates and corrections in the United States Table of Frequency Allocations (U.S. Table) portion. These ministerial actions do not modify or otherwise change the Commission's rules with respect to any party's underlying rights or responsibilities.

The ITU convenes a World Radiocommunication Conference (WRC) typically every three to four years to address international spectrum use. Specifically, the ITU allocates frequency bands to various radio services generally on either a worldwide or regional basis and enters these radio services in its Table of Frequency Allocations (which is reflected in § 2.106 of the Commission's rules as the International Table) as part of the Radio Regulations.

Discussion

By this administrative action, the Commission makes several non-substantive, editorial changes to the Commission's Allocation Table. None of the rule changes discussed in the *Order* are subject to the notice and comment requirements for rulemaking in the Administrative Procedure Act (APA). Section 553(b)(B) of the APA provides exceptions to the notice and comment requirements for rulemakings when, among other things, the agency finds good cause that the notice and comment requirements are ''impracticable, unnecessary, or contrary to the public interest'' with respect to the rules at issue. Specifically, the Final Rules consist of conforming changes to and corrects minor errors in the Allocation Table, including removing expired text from domestic footnotes. All of these changes are summarized below. These changes have no substantive effect on industry or the general public. Accordingly, the Commission found that it is ''unnecessary,'' within the meaning of section 553(b)(B) of the APA, to provide notice and an opportunity for public comment before implementing these rule revisions.

A. Reflecting WRC–19 Revisions in the International Table

The Commission updates the International Table within § 2.106 of the Commission's rules to reflect Article 5, section IV of the Radio Regulations (Edition of 2020), except as revised herein. The International Table is included within the Commission's Allocation Table for informational purposes only. Consistent with past practice, the Commission incorporates the following corrections and updates to the ITU's Table of Frequency Allocations for display as the International Table in § 2.106 of the Commission's rules: First, the Commission updates eight footnotes (5.328B, 5.341A, 5.341B, 5.341C, 5.351A, 5.384A, 5.388, 5.484B) by cross referencing four resolutions (Resolutions 155, 212, 223, 610) that were revised at WRC–19. Next, the Commission: (1) revises two footnotes (5.169A, 5.169B) to make them consistent with the **Federal Register**'s style used in footnote 5.346 and update the cross reference to Resolution 99 in footnote 5.346 to match the version shown in footnotes 5.169A and 5.169B; and (2) corrects footnotes 5.547 and 5.550E by adding the missing notation ''Rev.'' and by removing a dash that is inconsistent with 72 other instances of ''non-geostationary-satellite systems'' in Volume 1 of the Radio Regulations, respectively. Finally, the Commission notes that WRC–19 revised footnote 5.79 by permitting the use of the NAVDAT [navigational data] system to expand the potential uses of the band. Because this is not a non-substantive editorial change to the International Table that affects the U.S. Table, the Commission maintains the status quo of the U.S. Table by replacing the existing reference to footnote 5.79 in the 415–472 kHz, 479–495 kHz, and 505–510 kHz bands within the U.S. Table with that of placeholder footnote US79A. Footnote US79A contains the pre-WRC–19 text of footnote 5.79, except that the Commission lists only the bands where footnote 5.79 currently applies (*i.e.,* the Commission excludes the 472–479 kHz band, which is no longer allocated to the maritime mobile service, and the 510–525 kHz band, to which the Commission has never applied the provisions of footnote 5.79). The Commission further notes that revised footnote 5.79 applies to the maritime mobile service in the 415–495 kHz and 505–526.5 kHz bands in all ITU Regions; however, a reference to footnote 5.79 is not shown in the 510–525 kHz band within the Region 2 Table and there is no maritime mobile service entry or reference to footnote 5.79 in the 525–526.5 kHz sub-band within the Region 2 Table of the Radio Regulations. Therefore, the Commission adds this footnote 5.79 issue to note 1 of the Commission's Online Table at *https://www.fcc.gov/engineering-technology/policy-and-rules-division/general/radio-spectrum-allocation.* Title 47 of the Code of Federal Regulations (CFR) at *https://www.ecfr.gov/current/title-47* contains the official version of the Table of Frequency Allocations and the FCC

Online Table of Frequency is provided for convenience only.

B. Reflecting WRC–19 Revisions in the U.S. Table

WRC–19 deleted one international footnote (5.396) that is referenced in the U.S. Table and revised a resolution that is referenced in two domestic footnotes (US444B, G132). The Commission reviewed the relevant footnotes (5.396, US444B, G132) and found that implementing these changes in the Commission's rules will have no substantive effect on non-Federal operations.

Footnote 5.396 requires space stations in the broadcasting-satellite service (BSS) in the band 2310–2360 MHz operating in accordance with footnote 5.393 that may affect the services to which this band is allocated in other countries to be coordinated and notified in accordance with Resolution 33 (Rev.WRC–15), and further provides that complementary terrestrial broadcasting stations shall be subject to bilateral coordination with neighboring countries prior to their bringing into use. WRC–19 deleted Resolution 33 because the processing of filings under this Resolution was completed prior to WRC–07, and consequently deleted footnote 5.396 after moving its still-relevant text to footnote 5.393. The Commission is updating footnote 5.393 in the International Footnotes to reflect the WRC–19 revisions. See Final Rules. In the United States, BSS operators provide satellite radio service to customers using the 2320–2345 MHz band and footnote 5.393 is not included in the 2310–2360 MHz band of the U.S. Table. The Commission therefore found that removal of footnote 5.396 will have no substantive effect on non-Federal operations. The Commission found that the reference to footnote 5.396 should be removed from the non-Federal Table, consistent with the WRC–19 implementation.

Footnote US444B contains a cross reference to Resolution 418 (Rev.WRC–12). WRC–19 revised Resolution 418 by updating the guidance on the aeronautical mobile service use of the 5091–5150 MHz band by citing to Resolution 748 (Rev.WRC–19), by deleting the invitation that the ITU continue to study the conditions and arrangements for flight testing in this band, and by simplifying its text. Therefore, the Commission found that changing the reference to WRC–19's revision of Resolution 418 will not have any substantive effect on non-Federal operations.

The Commission updates footnote G132, which applies to the 1215–1240 MHz band, to cross reference revised Resolution 608, replacing ''(Rev.WRC–15)'' with ''(Rev.WRC–19).'' Resolution 608 pertains to the protection of the radionavigation service in certain countries in Regions 1 and 3; because the United States is located in Region 2, the revision of this resolution will not have any substantive effect on non-Federal operations.

C. Other Revisions to the Allocation Table

The Commission makes the following additional editorial changes to section 2.106 of the Commission's rules:

- Correct the Federal and non-Federal Tables by removing the reference to footnote 5.79A from the 435–472 kHz band because the footnote does not apply to that band.
- Revise footnotes US1, US82, US247, US281, US283, US296, US342, and G115 by changing the references to frequency units from ''kHz'' to ''MHz'' and revise footnote G32 from ''MHz'' to ''GHz'' in order to make the text of the footnotes consistent with the frequency units shown in the Allocation Table. In each of these footnotes, the Commission also moves the decimal point three spaces to the left and deletes unneeded zeros. In footnote US342, the Commission also corrects a typographical error by changing from ''23.07–23.12 GHz'' to ''23.07–23.12 GHz.''
- Add a space between the third and fourth digits of frequency bands that contain five digits in 28 international footnotes. Specifically, the Commission makes this display change by revising footnotes 5.109, 5.110, 5.111, 5.132, 5.133A, 5.134, 5.145, 5.145B, 5.146, 5.147, 5.149, 5.149A, 5.150, 5.151, 5.152, 5.153, 5.154, 5.155, 5.155A, 5.155B, 5.156, 5.156A, 5.157, 5.158, 5.474D, 5.477, 5.478, and 5.479. This display change is based on the format used in the Radio Regulations. ITU Radio Regulations, Vol. 1, Article 5, at 35–186.
- Simplify the display of facing pages in the Allocation Table. The heading on the top page of the Allocation Table also applies to the bottom page, *i.e.,* every two pages in the Allocation Table are facing pages. The Commission simplifies the display of facing pages in the Allocation Table by ending page 19 on the frequency 52 MHz in the Region 1 Table and on the frequency 54 MHz in all other tables (instead of permitting the entries for the 50–54 MHz band in the combined table for Regions 2 and 3 and the non-Federal Table, and the 50–73 MHz band in the Federal Table, to span pages 19 and 20).
- Remove the references to footnote US108 from the 3300–3500 and 3500–3550 MHz bands in the Federal Table and from the 3300–3450 and 3450–3600 MHz bands in the non-Federal Table and revise footnote G2 by deleting ''(except as provided for in US108)'' because footnote US108 no longer applies to the 3300–3550 MHz band. Footnote US108 was recently revised to remove the text that applied to the 3300–3550 MHz band. The Commission also moves the reference to footnote US431B from the bottom of the cell to the right of RADIOLOCATION in the 3300–3500 MHz band within the Federal Table because the footnote applies to only the radiolocation service.
- Place footnotes US431B and US433 in ascending numerical order in the 3450–3600 MHz band within the non-Federal Table. On page 39 of the Allocation Table, change the frequency range of the facing pages from ''2483.5–3500'' to ''2483.5–3600'' because 3450–3600 MHz is the last frequency band in the non-Federal Table in this set of facing pages.
- Simplify the non-Federal Table by combining the common radiocommunication service entries in the 3600–3650 MHz and 3650–3700 MHz bands to form the 3600–3700 MHz band, move the text of footnote NG185 to footnote NG169, and remove footnote NG185 from the list of non-Federal government (non-Federal) footnotes.
- Simplify the Federal Table by combining the common radiocommunication service entries in the 17.8–18.3 GHz and 18.3–18.6 GHz bands to form the 17.8–18.6 GHz band.
- Correct the placement of footnote NG65 in the non-Federal Table in the 24.75–25.25 GHz and 47.2–48.2 GHz bands by moving the footnote reference from the right of the fixed-satellite service (Earth-to-space) entry to the bottom of the cell because this footnote refers to three allocated services. For consistency in the Allocation Table, the Commission employs the following rules for footnote placement in both the International and U.S. Tables: The footnote references that appear below the allocated service or services apply to more than one of the allocated services, or to the whole of the allocation concerned. The footnote references that appear to the right of the name of a service are applicable only to that particular service. 47 CFR 2.104(h)(5)–(6).
- Correct footnotes 5.430A, 5.458, 5.509D, and 5.547 to reflect their text as shown in the Radio Regulations (ITU Radio Regulations, Vol. 1, Article 5, at 122, 132, 150, and 164). Specifically, the

Commission corrects footnotes: (1) 5.430A by deleting the last sentence (*i.e.,* ''This allocation is effective from 17 November 2010.''); (2) 5.458 by changing from ''6425–7025 MHz'' to ''6425–7075 MHz'' in the last sentence; (3) 5.509D by changing from ''19000'' to ''19 000'' in the last sentence; and (4) 5.547 by changing from ''Resolution 75 (WRC–12)'' to ''Resolution 75 (Rev.WRC–12).''

• Revise footnote US52 to account for now-expired text. Footnote US52 states that use of the frequencies 156.775 MHz and 156.825 MHz by the mobile-satellite service (Earth-to-space) is restricted to the reception of long-range Automatic Identification System (AIS) broadcast messages from ships. It also provided, in the text of the footnote, for port operations and ship navigation communications on these two frequencies (AIS 3 and AIS 4) until August 26, 2019. The Commission revises footnote US52 paragraph (b) to remove the reference to August 26, 2019. Previous port operations and ship navigation communications on these two frequencies (AIS 3 and AIS 4) expired on August 26, 2019 and are no longer permitted.

• Revise footnotes US100, US312, and NG33 to remove footnote text that pertains to dates that have passed (*i.e.*, expired text). Specifically, the Commission updates footnote US100 by removing the expired text in paragraph (b) providing that the 2345–2360 MHz band would be available for non-Federal aeronautical telemetering and associated telecommand operations for flight testing of aircraft and missiles until January 1, 2020; updates footnote US312 by limiting the use of the frequency 173.075 MHz by all stolen vehicle recovery systems to an authorized bandwidth not to exceed 12.5 kilohertz and striking language regarding operations on 20 kilohertz that expired on May 27, 2019; updates footnote NG33 by removing the expired text in paragraph (a), *i.e.,* the transition period for full-power and Class A television (TV) station and fixed TV broadcast auxiliary station operations in the 614–698 MHz band has concluded and the band is now used predominately for mobile broadband services. The Commission also corrects a typographical error, *i.e.,* white space devices may operate in the 657–663 MHz band in accordance with § 15.707(a)(2), instead of paragraph (a)(4), and simplifies the text of the footnote.

Paperwork Reduction Act Analysis

This document does not contain new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13 (44 U.S.C. 3501–3520). In addition, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Order to Congress and the Government Accountability office, pursuant to 5 U.S.C. 801(a)(1)(A).

Administrative Procedure Act Requirements

None of the rule changes discussed in this Final Rule are subject to the notice and comment requirements for rulemaking in the Administrative Procedure Act (APA). Section 553(b)(B) of the APA provides exceptions to the notice and comment requirements for rulemakings when, among other things, the agency finds good cause that the notice and comment requirements are ''impracticable, unnecessary, or contrary to the public interest'' with respect to the rules at issue. The changes discussed in this Final Rule have no substantive effect on industry or the general public. Accordingly, the Commission finds that it is ''unnecessary,'' within the meaning of section 553(b)(B) of the APA, to provide notice and an opportunity for public comment before implementing these rule revisions. Because the rule changes are being implemented without notice and comment, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* does not apply.

Ordering Clause

It is ordered that, pursuant to sections 1, 4(i), 4(j), 7, 301, 303(c), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157, 301, 303(c), 303(f), and 303(r), this Order is adopted.

It is further ordered that the amendments of part 2 of the Commission's rules, as set forth in Appendix A of the Order, are adopted, effective thirty (30) days after publication in the **Federal Register**.

List of Subjects in 47 CFR Part 2

Radio.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 2 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Amend § 2.106 as follows:
■ a. Revise pages 3, 4, 19 through 28, 30, 33, 34, 38 through 42, 50, 52 through 56, 58 through 60, 62, 66, and 68 in paragraph (a);
■ b. Revise paragraphs (b)(67) introductory text, (b)(67)(ii), and (b)(70);
■ c. Remove and reserve paragraph (b)(71);
■ d. Revise paragraphs (b)(77) and (79);
■ e. Add paragraph (b)(82)(i) and reserved paragraph (b)(82)(ii);
■ f. Revise paragraphs (b)(87), (107), (109) through (112), (114), (117), (118), (123), and (128), (b)(132) introductory text, (b)(132)(ii), (b)(133)(i) and (ii), (b)(134), (b)(141)(ii), (b)(145) introductory text, (b)(145)(ii), (b)(146) and (147), (b)(149) through (155), (b)(156) introductory text, (b)(156)(i), (b)(157) through (159), (b)(161)(i) and (ii), (b)(162)(i), and (b)(163) through (165);
■ g. Add paragraph (b)(166);
■ h. Revise paragraphs (b)(169), (171), (194), (201), and (202);
■ i. Add paragraph (b)(203);
■ j. Revise paragraphs (b)(204) and (b)(208)(i) and (ii);
■ k. Add paragraph (b)(209)(i) and reserved (b)(209)(ii);
■ l. Revise paragraphs (b)(211), (212), and (214);
■ m. Add paragraph (b)(218)(i) and reserved (b)(218)(ii);
■ n. Revise paragraphs (219) and (221);
■ o. Redesignate paragraphs (b)(228)(i) through (vii) as paragraphs (b)(228)(iii) through (ix) and add new paragraphs (b)(228)(i) and (ii);
■ p. Revise paragraphs (b)(242) and (252);
■ r. Add paragraphs (b)(260) and (b)(264)(i) and (ii);
■ s. Revise paragraphs (b)(265), (275), (277), and (278), (b)(279) introductory text, (b)(279)(i), (b)(280), (b)(286)(ii), (b)(287), (288), and (295), (b)(296) introductory text, (b)(296)(i), (b)(297), (b)(308) introductory text, and (b)(308)(i);

■ t. Remove and reserve paragraph (b)(311);
■ u. Revise paragraphs (b)(312) introductory text, (b)(312)(i), (b)(313) and (316), (b)(317)(i), (b)(323), (b)(325)(i), (b)(328)(ii) and (iii), (b)(329) and (331), (b)(338)(i), (b)(341)(i) through (iii), (b)(345), (346), (349), and (350), (b)(351)(i), (b)(352), (359), (368), and (372);
■ t. Add paragraph (b)(373);
■ u. Revise paragraphs (b)(382), (b)(384)(i), (b)(388) introductory text, (b)(388)(ii), (b)(389)(i) and (iv), and (b)(393);
■ v. Remove and reserve paragraph (b)(396);
■ w. Revise paragraphs (b)(401), (418), and (428), (b)(429) introductory text, (b)(429)(i) through (iv) and (vi), (b)(430) introductory text, (b)(430)(i), (b)(431) introductory text, (b)(432), (b)(433)(i), (b)(434), (b)(441)(i) and (ii), (b)(444)(ii), and (b)(446)(i) and (iii);
■ x. Add paragraph (b)(446)(iv);
■ y. Revise paragraphs (b)(447) introductory text, (b)(447)(vi), (b)(448), (b)(450)(i), (b)(453), (455), (458), and (468), (b)(473) introductory text, (b)(474)(iv), (b)(477), (b)(478) introductory text, (b)(479) through (481) and (483), (b)(484)(ii), (b)(495) and (505), (b)(508) introductory text, (b)(509)(iii), and (b)(516)(ii);
■ z. Add paragraph (b)(517)(i) and reserved paragraph (b)(517)(ii);
■ aa. Revise paragraph (b)(530)(ii);
■ bb. Redesignate paragraph (b)(532)(ii) as paragraph (b)(532)(iv) and add new paragraph (b)(532)(ii) and paragraph (b)(532)(iii);
■ cc. Add paragraph (b)(534);
■ dd. Revise paragraphs (b)(536)(i) and (ii), (b)(537)(i), (b)(543(i), and (b)(546) and (547);
■ ee. Add paragraphs (b)(550)(ii) through (v);
■ ff. Revise paragraph (b)(552)(i).
■ gg. Add paragraphs (b)(553)(i) and (ii), and (b)(555)(ii);
■ hh. Revise paragraph (b)(559(i);
■ ii. Add paragraph (b)(559)(ii);
■ jj. Revise paragraph (b)(562)(ii);
■ kk. Remove and reserve paragraphs (b)(562)(vi) and (vii);
■ ll. Add paragraph (b)(564);
■ mm. Revise paragraph (c)(1)
■ nn. Redesignate Note 2 to paragraph (c)(22)(ii)(B) as Note 4 to § 2.106(c)(22)(ii)(B);
■ oo. Revise paragraph (c)(52);
■ pp. Add paragraph (c)(79)(iii);
■ qq. Revise paragraph (c)(82);
■ rr. Redesignate Note 3 to table 4 to paragraph (c)(83) as Note 5 to table 4 to § 2.106(c)(83);
■ ss. Redesignate Note 4 to paragraph (c)(88)(ii) as Note 6 to § 2.106(c)(88)(ii);
■ tt. Redesignate Note 5 to paragraph (c)(91)(ii)(B) as Note 7 to § 2.106(c)(91)(ii)(B);
■ uu. Redesignate Note 6 to paragraph (c)(91)(ii)(C) as Note 8 to § 2.106(c)(91)(ii)(C);
■ vv. Redesignate Note 7 to paragraph (c)(97) as Note 9 to § 2.106(c)(97);
■ ww. Revise paragraph (c)(100);
■ xx. Redesignate Note 8 to paragraph (c)(136)(ii) as Note 10 to § 2.106(c)(136)(ii);
■ yy. Redesignate Note 9 to paragraph (c)(161)(ii) as Note 11 to § 2.106(c)(161)(ii);
■ zz. Revise paragraphs (c)(247), (281), (283), (296), (312), and (342), and (c)(444)(ii);
■ aaa. Redesignate Note 10 to paragraph (c)(565) as Note 12 to § 2.106(c)(565);
■ bbb. Revise paragraph (d)(33);
■ ccc. Redesignate Note 11 to paragraph (d)(53) as Note 13 to paragraph (d)(53);
■ ddd. Revise paragraph (d)(169);
■ eee. Remove and reserve paragraph (d)(185); and
■ fff. Revise paragraphs (e)(2), (32), (115), and (132).

The revisions and additions read as follows:

§ 2.106 Table of Frequency Allocations.

(a) * * *

Table of Frequency Allocations	137.8-1800 kHz (LF/MF)				Page 3
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
137.8-148.5 FIXED MARITIME MOBILE 5.64 5.67	137.8-160 FIXED MARITIME MOBILE 5.64	137.8-160 FIXED MARITIME MOBILE RADIONAVIGATION 5.64	137.8-160 FIXED MARITIME MOBILE 5.64 US2		Maritime (80)
148.5-255 BROADCASTING	160-190 FIXED	160-190 FIXED Aeronautical radionavigation	160-190 FIXED MARITIME MOBILE US2	160-190 FIXED US2	
	190-200 AERONAUTICAL RADIONAVIGATION		190-200 AERONAUTICAL RADIONAVIGATION US18 US2		Aviation (87)
5.68 5.69 5.70 255-283.5 BROADCASTING AERONAUTICAL RADIONAVIGATION 5.70	200-275 AERONAUTICAL RADIONAVIGATION Aeronautical mobile	200-285 AERONAUTICAL RADIONAVIGATION Aeronautical mobile	200-275 AERONAUTICAL RADIONAVIGATION US18 Aeronautical mobile US2		
283.5-315 AERONAUTICAL RADIONAVIGATION MARITIME RADIONAVIGATION (radiobeacons) 5.73	275-285 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Maritime radionavigation (radiobeacons)		275-285 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Maritime radionavigation (radiobeacons) US2 US18		
5.74	285-315 AERONAUTICAL RADIONAVIGATION MARITIME RADIONAVIGATION (radiobeacons) 5.73		285-325 MARITIME RADIONAVIGATION (radiobeacons) 5.73 Aeronautical radionavigation (radiobeacons)		
315-325 AERONAUTICAL RADIONAVIGATION Maritime radionavigation (radiobeacons) 5.73 5.75	315-325 MARITIME RADIONAVIGATION (radiobeacons) 5.73 Aeronautical radionavigation	315-325 AERONAUTICAL RADIONAVIGATION MARITIME RADIONAVIGATION (radiobeacons) 5.73	US2 US18 US364		
325-405 AERONAUTICAL RADIONAVIGATION	325-335 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Maritime radionavigation (radiobeacons)	325-405 AERONAUTICAL RADIONAVIGATION Aeronautical mobile	325-335 AERONAUTICAL RADIONAVIGATION (radiobeacons) Aeronautical mobile Maritime radionavigation (radiobeacons) US2 US18		Aviation (87)
	335-405 AERONAUTICAL RADIONAVIGATION Aeronautical mobile		335-405 AERONAUTICAL RADIONAVIGATION (radiobeacons) US18 Aeronautical mobile US2		
405-415 RADIONAVIGATION 5.76	405-415 RADIONAVIGATION 5.76 Aeronautical mobile		405-415 RADIONAVIGATION 5.76 US18 Aeronautical mobile US2		Maritime (80) Aviation (87)
415-435 MARITIME MOBILE 5.79 AERONAUTICAL RADIONAVIGATION	415-472 MARITIME MOBILE 5.79 Aeronautical radionavigation 5.77 5.80		415-435 MARITIME MOBILE US79A AERONAUTICAL RADIONAVIGATION US2		

435-472 MARITIME MOBILE 5.79 Aeronautical radionavigation 5.77 5.82	5.78 5.82		435-472 MARITIME MOBILE US79A Aeronautical radionavigation 5.82 US2 US231	435-472 MARITIME MOBILE US79A 5.82 US2 US231	
472-479 MARITIME MOBILE 5.79 Amateur 5.80A Aeronautical radionavigation 5.77 5.80 5.80B 5.82			472-479 US2	472-479 Amateur 5.80A 5.82 US2 NG8	Amateur Radio (97)
479-495 MARITIME MOBILE 5.79 5.79A Aeronautical radionavigation 5.77 5.82	479-495 MARITIME MOBILE 5.79 5.79A Aeronautical radionavigation 5.77 5.80 5.82		479-495 MARITIME MOBILE US79A 5.79A Aeronautical radionavigation 5.82 US2 US231	479-495 MARITIME MOBILE US79A 5.79A 5.82 US2 US231	Maritime (80)
495-505 MARITIME MOBILE 5.82C			495-505 MARITIME MOBILE		Maritime (80) Aviation (87)
505-526.5 MARITIME MOBILE 5.79 5.79A 5.84 AERONAUTICAL RADIONAVIGATION	505-510 MARITIME MOBILE 5.79	505-526.5 MARITIME MOBILE 5.79 5.79A 5.84 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Land mobile	505-510 MARITIME MOBILE US79A		Maritime (80)
	510-525 MARITIME MOBILE 5.79A 5.84 AERONAUTICAL RADIONAVIGATION		510-525 MARITIME MOBILE (ships only) 5.79A 5.84 AERONAUTICAL RADIONAVIGATION (radiobeacons) US18 US14 US225		Maritime (80) Aviation (87)
526.5-1606.5 BROADCASTING	525-535 BROADCASTING 5.86 AERONAUTICAL RADIONAVIGATION	526.5-535 BROADCASTING Mobile 5.88	525-535 MOBILE US221 AERONAUTICAL RADIONAVIGATION (radiobeacons) US18 US239		Aviation (87) Private Land Mobile (90)
	535-1605 BROADCASTING	535-1606.5 BROADCASTING	535-1605	535-1605 BROADCASTING NG1 NG5	Radio Broadcast (AM)(73) Private Land Mobile (90)
5.87 5.87A	1605-1625 BROADCASTING 5.89		1605-1615 MOBILE US221 G127	1605-1705 BROADCASTING 5.89	Radio Broadcast (AM)(73) Alaska Fixed (80) Private Land Mobile (90)
1606.5-1625 FIXED MARITIME MOBILE 5.90 LAND MOBILE 5.92	5.90	1606.5-1800 FIXED MOBILE RADIOLOCATION RADIONAVIGATION	1615-1705		
1625-1635 RADIOLOCATION 5.93	1625-1705 FIXED MOBILE BROADCASTING 5.89 Radiolocation				
1635-1800 FIXED MARITIME MOBILE 5.90 LAND MOBILE	5.90		US299	US299 NG1 NG5	
	1705-1800 FIXED MOBILE RADIOLOCATION AERONAUTICAL RADIONAVIGATION		1705-1800 FIXED MOBILE RADIOLOCATION		Alaska Fixed (80) Private Land Mobile (90)
5.92 5.96		5.91	US240		

Table of Frequency Allocations			41.015-117.975 MHz (VHF)		Page 19
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
40.98-41.015 FIXED MOBILE Space research 5.160 5.161			40-41.015 MHz: see previous page		
41.015-42 FIXED MOBILE 5.160 5.161 5.161A			41.015-41.665 FIXED MOBILE RADIOLOCATION US132A US220	41.015-41.665 RADIOLOCATION US132A US220	Private Land Mobile (90)
			41.665-42 FIXED MOBILE US220	41.665-42 US220	
42-42.5 FIXED MOBILE Radiolocation 5.132A 5.160 5.161B	42-42.5 FIXED MOBILE 5.161		42-43.35	42-43.35 FIXED LAND MOBILE NG124 NG141	Public Mobile (22) Private Land Mobile (90)
42.5-44 FIXED MOBILE 5.160 5.161 5.161A			43.35-44 RADIOLOCATION US132A	43.35-43.69 FIXED LAND MOBILE RADIOLOCATION US132A NG124	
				43.69-44 LAND MOBILE RADIOLOCATION US132A NG124	Private Land Mobile (90)
44-47 FIXED MOBILE 5.162 5.162A			44-46.6	44-46.6 LAND MOBILE NG124 NG141	
			46.6-47 FIXED MOBILE	46.6-47	
47-50 BROADCASTING 5.162A 5.163 5.164 5.165	47-50 FIXED MOBILE	47-50 FIXED MOBILE BROADCASTING 5.162A	47-49.6	47-49.6 LAND MOBILE NG124	Private Land Mobile (90)
			49.6-50 FIXED MOBILE	49.6-50	
50-52 BROADCASTING Amateur 5.166A 5.166B 5.166C 5.166D 5.166E 5.169 5.169A 5.169B 5.162A 5.164 5.165	50-54 AMATEUR 5.162A 5.167 5.167A 5.168 5.170		50-54	50-54 AMATEUR	Amateur Radio (97)

52-68 BROADCASTING 5.162A 5.163 5.164 5.165 5.169 5.169A 5.169B 5.171	54-68 BROADCASTING Fixed Mobile 5.172	54-68 FIXED MOBILE BROADCASTING 5.162A	54-73	54-72 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/ Booster (74G) Low Power Auxiliary (74H)
68-74.8 FIXED MOBILE except aeronautical mobile	68-72 BROADCASTING Fixed Mobile 5.173	68-74.8 FIXED MOBILE			
	72-73 FIXED MOBILE			72-73 FIXED MOBILE NG3 NG16 NG56	Public Mobile (22) Maritime (80) Aviation (87) Private Land Mobile (90) Personal Radio (95)
	73-74.6 RADIO ASTRONOMY 5.178		73-74.6 RADIO ASTRONOMY US74 US246		
	74.6-74.8 FIXED MOBILE		74.6-74.8 FIXED MOBILE US273		Private Land Mobile (90)
5.149 5.175 5.177 5.179		5.149 5.176 5.179			
74.8-75.2 AERONAUTICAL RADIONAVIGATION 5.180 5.181			74.8-75.2 AERONAUTICAL RADIONAVIGATION 5.180		Aviation (87)
75.2-87.5 FIXED MOBILE except aeronautical mobile	75.2-75.4 FIXED MOBILE 5.179		75.2-75.4 FIXED MOBILE US273		Private Land Mobile (90)
	75.4-76 FIXED MOBILE	75.4-87 FIXED MOBILE	75.4-88	75.4-76 FIXED MOBILE NG3 NG16 NG56	Public Mobile (22) Maritime (80) Aviation (87) Private Land Mobile (90) Personal Radio (95)
	76-88 BROADCASTING Fixed Mobile 5.185	5.182 5.183 5.188 87-100 FIXED MOBILE BROADCASTING		76-88 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/ Booster (74G) Low Power Auxiliary (74H)
5.175 5.179 5.187					
87.5-100 BROADCASTING 5.190	88-100 BROADCASTING		88-108	88-108 BROADCASTING NG2 US93 NG5	Broadcast Radio (FM)(73) FM Translator/Booster (74L)
100-108 BROADCASTING 5.192 5.194			US93		
108-117.975 AERONAUTICAL RADIONAVIGATION 5.197 5.197A			108-117.975 AERONAUTICAL RADIONAVIGATION 5.197A US93		Aviation (87)

Table of Frequency Allocations			117.975-150.8 MHz (VHF)		Page 21
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
117.975-137 AERONAUTICAL MOBILE (R) 5.111 5.200 5.201 5.202			117.975-121.9375 AERONAUTICAL MOBILE (R) 5.111 5.200 US26 US28 US36		Aviation (87)
			121.9375-123.0875 US30 US31 US33 US80 US102 US213	121.9375-123.0875 AERONAUTICAL MOBILE US30 US31 US33 US80 US102 US213	
			123.0875-123.5875 AERONAUTICAL MOBILE 5.200 US32 US33 US112		
			123.5875-128.8125 AERONAUTICAL MOBILE (R) US26 US36		
			128.8125-132.0125	128.8125-132.0125 AERONAUTICAL MOBILE (R)	
			132.0125-136 AERONAUTICAL MOBILE (R) US26		
			136-137 US244	136-137 AERONAUTICAL MOBILE (R) US244	
137-137.025 SPACE OPERATION (space-to-Earth) 5.203C METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.208B 5.209 SPACE RESEARCH (space-to-Earth) Fixed Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137-137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US319 US320 SPACE RESEARCH (space-to-Earth) 5.208		Satellite Communications (25)
137.025-137.175 SPACE OPERATION (space-to-Earth) 5.203C METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Fixed Mobile except aeronautical mobile (R) Mobile-satellite (space-to-Earth) 5.208A 5.208B 5.209 5.204 5.205 5.206 5.207 5.208			137.025-137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Mobile-satellite (space-to-Earth) US319 US320 5.208		
137.175-137.825 SPACE OPERATION (space-to-Earth) 5.203C 5.209A METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.208B 5.209 SPACE RESEARCH (space-to-Earth) Fixed Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137.175-137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US319 US320 SPACE RESEARCH (space-to-Earth) 5.208		

137.825-138 SPACE OPERATION (space-to-Earth) 5.203C METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Fixed Mobile except aeronautical mobile (R) Mobile-satellite (space-to-Earth) 5.208A 5.208B 5.209 5.204 5.205 5.206 5.207 5.208			137.825-138 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Mobile-satellite (space-to-Earth) US319 US320 5.208		
138-143.6 AERONAUTICAL MOBILE (OR) 5.210 5.211 5.212 5.214	138-143.6 FIXED MOBILE RADIOLOCATION Space research (space-to-Earth)	138-143.6 FIXED MOBILE Space research (space-to-Earth) 5.207 5.213	138-144 FIXED MOBILE	138-144	
143.6-143.65 AERONAUTICAL MOBILE (OR) SPACE RESEARCH (space-to-Earth) 5.211 5.212 5.214	143.6-143.65 FIXED MOBILE RADIOLOCATION SPACE RESEARCH (space-to-Earth)	143.6-143.65 FIXED MOBILE SPACE RESEARCH (space-to-Earth) 5.207 5.213			
143.65-144 AERONAUTICAL MOBILE (OR) 5.210 5.211 5.212 5.214	143.65-144 FIXED MOBILE RADIOLOCATION Space research (space-to-Earth)	143.65-144 FIXED MOBILE Space research (space-to-Earth) 5.207 5.213	G30	144-146 AMATEUR AMATEUR-SATELLITE	*Amateur Radio (97)*
144-146 AMATEUR AMATEUR-SATELLITE 5.216			144-148		
146-148 FIXED MOBILE except aeronautical mobile (R)	146-148 AMATEUR 5.217	146-148 AMATEUR FIXED MOBILE 5.217		146-148 AMATEUR	
148-149.9 FIXED MOBILE except aeronautical mobile (R) MOBILE-SATELLITE (Earth-to-space) 5.209 5.209 5.218 5.218A 5.219 5.221	148-149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.209 5.218 5.218A 5.219 5.221		148-149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) US319 US320 US323 US325 5.218 5.219 G30	148-149.9 MOBILE-SATELLITE (Earth-to-space) US320 US323 US325 5.218 5.219 US319	*Satellite Communications (25)*
149.9-150.05 MOBILE-SATELLITE (Earth-to-space) 5.209 5.220			149.9-150.05 MOBILE-SATELLITE (Earth-to-space) US319 US320 RADIONAVIGATION-SATELLITE		
150.05-153 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149 5.225	150.05-154 FIXED MOBILE		150.05-150.8 FIXED MOBILE US73 G30	150.05-150.8 US73	

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150.05-153 MHz: see previous page	150.05-154 MHz: see previous page		150.8-152.855	150.8-152.855 FIXED LAND MOBILE NG4 NG51 NG112	Public Mobile (22) Private Land Mobile (90)
			US73	US73 NG124	Personal Radio (95)
153-154 FIXED MOBILE except aeronautical mobile (R) Meteorological aids			152.855-156.2475	152.855-154 LAND MOBILE NG4 NG124	Remote Pickup (74D) Private Land Mobile (90)
154-156.4875 FIXED MOBILE except aeronautical mobile (R)	154-156.4875 FIXED MOBILE	154-156.4875 FIXED MOBILE		154-156.2475 FIXED LAND MOBILE NG112	Maritime (80) Private Land Mobile (90)
5.225A 5.226	5.226	5.225A 5.226		5.226 NG22 NG124 NG148	Personal Radio (95)
156.4875-156.5625 MARITIME MOBILE (distress and calling via DSC)			156.2475-156.5125	156.2475-156.5125 MARITIME MOBILE NG22	Maritime (80) Aviation (87)
5.111 5.226 5.227			5.226 US52 US227 US266	5.226 US52 US227 US266 NG124	
			156.5125-156.5375 MARITIME MOBILE (distress, urgency, safety and calling via DSC) 5.111 5.226 US266		
156.5625-156.7625 FIXED MOBILE except aeronautical mobile (R)	156.5625-156.7625 FIXED MOBILE		156.5375-156.7625	156.5375-156.7625 MARITIME MOBILE	
5.226	5.226		5.226 US52 US227 US266	5.226 US52 US227 US266	
156.7625-156.7875 MARITIME MOBILE Mobile-satellite (Earth-to-space)	156.7625-156.7875 MARITIME MOBILE MOBILE-SATELLITE (Earth-to-space)	156.7625-156.7875 MARITIME MOBILE Mobile-satellite (Earth-to-space)	156.7625-156.7875 MOBILE-SATELLITE (Earth-to-space) (AIS 3)		Satellite Communications (25) Maritime (80)
5.111 5.226 5.228	5.111 5.226 5.228	5.111 5.226 5.228	5.226 US52 US266		
156.7875-156.8125 MARITIME MOBILE (distress and calling) 5.111 5.226			156.7875-156.8125 MARITIME MOBILE (distress, urgency, safety and calling) 5.111 5.226 US266		Maritime (80) Aviation (87)
156.8125-156.8375 MARITIME MOBILE Mobile-satellite (Earth-to-space)	156.8125-156.8375 MARITIME MOBILE MOBILE-SATELLITE (Earth-to-space)	156.8125-156.8375 MARITIME MOBILE Mobile-satellite (Earth-to-space)	156.8125-156.8375 MOBILE-SATELLITE (Earth-to-space) (AIS 4)		Satellite Communications (25) Maritime (80)
5.111 5.226 5.228	5.111 5.226 5.228	5.111 5.226 5.228	5.226 US52 US266		
156.8375-157.1875 FIXED MOBILE except aeronautical mobile	156.8375-157.1875 FIXED MOBILE		156.8375-157.0375	156.8375-157.0375 MARITIME MOBILE	Maritime (80) Aviation (87)
5.226	5.226		5.226 US52 US266	5.226 US52 US266	
			157.0375-157.1875 MARITIME MOBILE US214	157.0375-157.1875	Maritime (80)
			5.226 US266 G109	5.226 US214 US266	
157.1875-157.3375 FIXED MOBILE except aeronautical mobile Maritime mobile-satellite 5.208A 5.208B 5.228AB 5.228AC	157.1875-157.3375 FIXED MOBILE Maritime mobile-satellite 5.208A 5.208B 5.228AB 5.228AC		157.1875-161.575	157.1875-157.45 MOBILE except aeronautical mobile US266	Maritime (80) Aviation (87) Private Land Mobile (90)
5.226	5.226				

157.3375-161.7875 FIXED MOBILE except aeronautical mobile	157.3375-161.7875 FIXED MOBILE			5.226 NG111 157.45-161.575 FIXED LAND MOBILE NG28 NG111 NG112 5.226 NG6 NG70 NG124 NG148 NG155	Public Mobile (22) Remote Pickup (74D) Maritime (80) Private Land Mobile (90)
			161.575-161.625 MARITIME MOBILE 5.226 US52	161.575-161.625 MARITIME MOBILE 5.226 US52 NG6 NG17	Public Mobile (22) Maritime (80)
			161.625-161.9625	161.625-161.775 LAND MOBILE NG6 5.226	Public Mobile (22) Remote Pickup (74D) Low Power Auxiliary (74H)
5.226	5.226			161.775-161.9625 MOBILE except aeronautical mobile US266 NG6	Maritime (80) Private Land Mobile (90)
161.7875-161.9375 FIXED MOBILE except aeronautical mobile Maritime mobile-satellite 5.208A 5.208B 5.228AB 5.228AC 5.226	161.7875-161.9375 FIXED MOBILE Maritime mobile-satellite 5.208A 5.208B 5.228AB 5.228AC 5.226				
161.9375-161.9625 FIXED MOBILE except aeronautical mobile Maritime mobile-satellite (Earth-to-space) 5.228AA 5.226	161.9375-161.9625 FIXED MOBILE Maritime mobile-satellite (Earth-to-space) 5.228AA 5.226			US266 5.226	
161.9625-161.9875 FIXED MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.228F 5.226 5.228A 5.228B	161.9625-161.9875 AERONAUTICAL MOBILE (OR) MARITIME MOBILE MOBILE-SATELLITE (Earth-to-space) 5.228C 5.228D	161.9625-161.9875 MARITIME MOBILE Aeronautical mobile (OR) 5.228E Mobile-satellite (Earth-to-space) 5.228F 5.226		161.9625-161.9875 AERONAUTICAL MOBILE (OR) (AIS 1) MARITIME MOBILE (AIS 1) MOBILE-SATELLITE (Earth-to-space) (AIS 1) 5.228C US52	Satellite Communications (25) Maritime (80)
161.9875-162.0125 FIXED MOBILE except aeronautical mobile Maritime mobile-satellite (Earth-to-space) 5.228AA 5.226 5.229	161.9875-162.0125 FIXED MOBILE Maritime mobile-satellite (Earth-to-space) 5.228AA 5.226			161.9875-162.0125 MOBILE except aeronautical mobile 5.226	Maritime (80)
162.0125-162.0375 FIXED MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.228F 5.226 5.228A 5.228B 5.229	162.0125-162.0375 AERONAUTICAL MOBILE (OR) MARITIME MOBILE MOBILE-SATELLITE (Earth-to-space) 5.228C 5.228D	162.0125-162.0375 MARITIME MOBILE Aeronautical mobile (OR) 5.228E Mobile-satellite (Earth-to-space) 5.228F 5.226		162.0125-162.0375 AERONAUTICAL MOBILE (OR) (AIS 2) MARITIME MOBILE (AIS 2) MOBILE-SATELLITE (Earth-to-space) (AIS 2) 5.228C US52	Satellite Communications (25) Maritime (80)

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162.0375-174 FIXED MOBILE except aeronautical mobile	162.0375-174 FIXED MOBILE		162.0375-173.2 FIXED MOBILE US8 US11 US13 US55 US73 US300 US312 G5	162.0375-173.2 US8 US11 US13 US55 US73 US300 US312	Remote Pickup (74D) Private Land Mobile (90)
			173.2-173.4	173.2-173.4 FIXED Land mobile	Private Land Mobile (90)
5.226 5.229	5.226 5.230 5.231		173.4-174 FIXED MOBILE G5	173.4-174	
174-223 BROADCASTING	174-216 BROADCASTING Fixed Mobile	174-223 FIXED MOBILE BROADCASTING	174-216	174-216 BROADCASTING NG5 NG14 NG115 NG149	Broadcast Radio (TV)(73) LPTV, TV Translator/ Booster (74G) Low Power Auxiliary (74H)
	216-220 FIXED MARITIME MOBILE Radiolocation 5.241 5.242		216-217 Fixed Land mobile US210 US241 G2	216-219 FIXED MOBILE except aeronautical mobile US210 US241 NG173	Maritime (80) Private Land Mobile (90) Personal Radio (95)
			217-220 Fixed Mobile US210 US241	219-220 FIXED MOBILE except aeronautical mobile Amateur NG152 US210 US241 NG173	Maritime (80) Private Land Mobile (90) Amateur Radio (97)
	220-225 AMATEUR FIXED MOBILE Radiolocation 5.241		220-222 FIXED LAND MOBILE US241 US242		Private Land Mobile (90)
5.235 5.237 5.243		5.233 5.238 5.240 5.245	222-225	222-225 AMATEUR	Amateur Radio (97)
223-230 BROADCASTING Fixed Mobile		223-230 FIXED MOBILE BROADCASTING			
	225-235 FIXED MOBILE	AERONAUTICAL RADIONAVIGATION Radiolocation 5.250	225-235 FIXED MOBILE	225-235	
5.243 5.246 5.247 230-235 FIXED MOBILE		230-235 FIXED MOBILE AERONAUTICAL RADIONAVIGATION			
5.247 5.251 5.252		5.250	G27		

235-267 FIXED MOBILE 5.111 5.252 5.254 5.256 5.256A	235-267 FIXED MOBILE 5.111 5.256 G27 G100	235-267 5.111 5.256	
267-272 FIXED MOBILE Space operation (space-to-Earth) 5.254 5.257	267-322 FIXED MOBILE	267-322	
272-273 SPACE OPERATION (space-to-Earth) FIXED MOBILE 5.254			
273-312 FIXED MOBILE 5.254			
312-315 FIXED MOBILE Mobile-satellite (Earth-to-space) 5.254 5.255			
315-322 FIXED MOBILE 5.254	G27 G100		
322-328.6 FIXED MOBILE RADIO ASTRONOMY 5.149	322-328.6 FIXED MOBILE US342 G27	322-328.6 US342	
328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258 5.259	328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258		Aviation (87)
335.4-387 FIXED MOBILE 5.254	335.4-399.9 FIXED MOBILE	335.4-399.9	
387-390 FIXED MOBILE Mobile-satellite (space-to-Earth) 5.208A 5.208B 5.254 5.255			
390-399.9 FIXED MOBILE 5.254	G27 G100		
399.9-400.05 MOBILE-SATELLITE (Earth-to-space) 5.209 5.220 5.260A 5.260B	399.9-400.05 MOBILE-SATELLITE (Earth-to-space) US319 US320 RADIONAVIGATION-SATELLITE		Satellite Communications (25)

Table of Frequency Allocations			400.05-456 MHz (UHF)		Page 27
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400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261 5.262			400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261		
400.15-401 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.208B 5.209 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 5.262 5.264			400.15-401 METEOROLOGICAL AIDS (radiosonde) US70 METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US319 US320 US324 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 5.264	400.15-401 METEOROLOGICAL AIDS (radiosonde) US70 MOBILE-SATELLITE (space-to-Earth) US319 US320 US324 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth) 5.264	Satellite Communications (25)
401-402 METEOROLOGICAL AIDS SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile 5.264A 5.264B			401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) US64 US384	401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US64 US384	MedRadio (95I)
402-403 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile 5.264A 5.264B			402-403 METEOROLOGICAL AIDS (radiosonde) US70 EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) US64 US384	402-403 METEOROLOGICAL AIDS (radiosonde) US70 Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US64 US384	
403-406 METEOROLOGICAL AIDS Fixed Mobile except aeronautical mobile 5.265			403-406 METEOROLOGICAL AIDS (radiosonde) US70 US64 G6	403-406 METEOROLOGICAL AIDS (radiosonde) US70 US64	
406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.265 5.266 5.267			406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.266 5.267		Maritime (EPIRBs) (80V) Aviation (ELTs) (87F) Personal Radio (95)
406.1-410 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149 5.265			406.1-410 FIXED MOBILE RADIO ASTRONOMY US74 US13 US55 US117 G5 G6	406.1-410 RADIO ASTRONOMY US74 US13 US55 US117	Private Land Mobile (90)

410-420 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (space-to-space) 5.268		410-420 FIXED MOBILE SPACE RESEARCH (space-to-space) 5.268 US13 US55 US64 G5	410-420 US13 US55 US64	Private Land Mobile (90) MedRadio (95I)
420-430 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271		420-450 RADIOLOCATION G2 G129	420-450 Amateur US270	Private Land Mobile (90) MedRadio (95I) Amateur Radio (97)
430-432 AMATEUR RADIOLOCATION 5.271 5.274 5.275 5.276 5.277	430-432 RADIOLOCATION Amateur 5.271 5.276 5.277 5.278 5.279			
432-438 AMATEUR RADIOLOCATION Earth exploration-satellite (active) 5.279A 5.138 5.271 5.276 5.277 5.280 5.281 5.282	432-438 RADIOLOCATION Amateur Earth exploration-satellite (active) 5.279A 5.271 5.276 5.277 5.278 5.279 5.281 5.282			
438-440 AMATEUR RADIOLOCATION 5.271 5.274 5.275 5.276 5.277 5.283	438-440 RADIOLOCATION Amateur 5.271 5.276 5.277 5.278 5.279			
440-450 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271 5.284 5.285 5.286		5.286 US64 US87 US230 US269 US270 US397 G8	5.282 5.286 US64 US87 US230 US269 US397	
450-455 FIXED MOBILE 5.286AA		450-454 5.286 US64 US87	450-454 LAND MOBILE 5.286 US64 US87 NG112 NG124	Remote Pickup (74D) Low Power Auxiliary (74H) Private Land Mobile (90) MedRadio (95I)
5.209 5.271 5.286 5.286A 5.286B 5.286C 5.286D 5.286E		454-456	454-455 FIXED LAND MOBILE US64 NG32 NG112 NG148	Public Mobile (22) Maritime (80) MedRadio (95I)
455-456 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E	455-456 FIXED MOBILE 5.286AA MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	455-456 FIXED MOBILE 5.286AA 5.209 5.271 5.286A 5.286B 5.286C 5.286E US64	455-456 LAND MOBILE US64	Remote Pickup (74D) Low Power Auxiliary (74H) MedRadio (95I)

5.149 5.291A 5.294 5.296 5.300 5.304 5.306 5.312 694-790 MOBILE except aeronautical mobile 5.312A 5.317A BROADCASTING	614-698 BROADCASTING Fixed Mobile 5.293 5.308 5.308A 5.309		614-890	614-698 FIXED MOBILE NG5 NG14 NG33 NG115 NG149	RF Devices (15) Wireless Communications (27) LPTV, TV Translator/Booster (74G) Low Power Auxiliary (74H)
	698-806 MOBILE 5.317A BROADCASTING Fixed			698-758 FIXED MOBILE BROADCASTING NG159	Wireless Communications (27) LPTV and TV Translator (74G)
				758-775 FIXED MOBILE NG34 NG159	Public Safety Land Mobile (90R)
				775-788 FIXED MOBILE BROADCASTING NG159	Wireless Communications (27) LPTV and TV Translator (74G)
5.300 5.312 790-862 FIXED MOBILE except aeronautical mobile 5.316B 5.317A BROADCASTING				788-805 FIXED MOBILE NG34 NG159	Public Safety Land Mobile (90R)
	5.293 5.309			805-806 FIXED MOBILE BROADCASTING NG159	Wireless Communications (27) LPTV and TV Translator (74G)
	806-890 FIXED MOBILE 5.317A BROADCASTING			806-809 LAND MOBILE	Public Safety Land Mobile (90S)
				809-849 FIXED LAND MOBILE	Public Mobile (22) Private Land Mobile (90)
				849-851 AERONAUTICAL MOBILE	Public Mobile (22)
				851-854 LAND MOBILE	Public Safety Land Mobile (90S)
5.312 5.319 862-890 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322				854-894 FIXED LAND MOBILE	Public Mobile (22) Private Land Mobile (90)
5.319 5.323	5.317 5.318	5.149 5.305 5.306 5.307 5.320		US116 US268	

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1427-1429 SPACE OPERATION (Earth-to-space) FIXED MOBILE except aeronautical mobile 5.341A 5.341B 5.341C 5.338A 5.341			1427-1429.5 LAND MOBILE (medical telemetry and medical telecommand) US350 5.341 US79	1427-1429.5 LAND MOBILE (telemetry and telecommand) Fixed (telemetry) 5.341 US79 US350 NG338A	Private Land Mobile (90) Personal Radio (95)
1429-1452 FIXED MOBILE except aeronautical mobile 5.341A 5.338A 5.341 5.342	1429-1452 FIXED MOBILE 5.341B 5.341C 5.343 5.338A 5.341		1429.5-1432 5.341 US79 US350	1429.5-1432 FIXED (telemetry and telecommand) LAND MOBILE (telemetry and telecommand) 5.341 US79 US350 NG338A	
			1432-1435 5.341 US83	1432-1435 FIXED MOBILE except aeronautical mobile 5.341 US83 NG338A	Wireless Communications (27)
1452-1492 FIXED MOBILE except aeronautical mobile 5.346 BROADCASTING BROADCASTING-SATELLITE 5.208B 5.341 5.342 5.345	1452-1492 FIXED MOBILE 5.341B 5.343 5.346A BROADCASTING BROADCASTING-SATELLITE 5.208B 5.341 5.344 5.345		1435-1525 MOBILE (aeronautical telemetry) US338A 5.341 US84 US343		Aviation (87)
1492-1518 FIXED MOBILE except aeronautical mobile 5.341A 5.341 5.342	1492-1518 FIXED MOBILE 5.341B 5.343 5.341 5.344	1492-1518 FIXED MOBILE 5.341C 5.341			
1518-1525 FIXED MOBILE except aeronautical mobile MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A 5.341 5.342	1518-1525 FIXED MOBILE 5.343 MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A 5.341 5.344	1518-1525 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.348 5.348A 5.348B 5.351A 5.341			
1525-1530 SPACE OPERATION (space-to-Earth) FIXED MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A Earth exploration-satellite Mobile except aeronautical mobile 5.349 5.341 5.342 5.350 5.351 5.352A 5.354	1525-1530 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A Earth exploration-satellite Fixed Mobile 5.343 5.341 5.351 5.354	1525-1530 SPACE OPERATION (space-to-Earth) FIXED MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A Earth exploration-satellite Mobile 5.349 5.341 5.351 5.352A 5.354	1525-1535 MOBILE-SATELLITE (space-to-Earth) US315 US380		Satellite Communications (25) Maritime (80)

1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A 5.353A Earth exploration-satellite Fixed Mobile except aeronautical mobile 5.341 5.342 5.351 5.354	1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A 5.353A Earth exploration-satellite Fixed Mobile 5.343 5.341 5.351 5.354		5.341 5.351	
1535-1559 MOBILE-SATELLITE (space-to-Earth) 5.208B 5.351A 5.341 5.351 5.353A 5.354 5.355 5.356 5.357 5.357A 5.359 5.362A			1535-1559 MOBILE-SATELLITE (space-to-Earth) US308 US309 US315 US380 5.341 5.351 5.356	Satellite Communications (25) Maritime (80) Aviation (87)
1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.208B 5.328B 5.329A 5.341			1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth)(space-to-space) 5.341 US85 US208 US260	Aviation (87)
1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.371 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION RADIODETERMINATION-SATELLITE (Earth-to-space) 5.341 5.364 5.366 5.367 5.368 5.370 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Radiodetermination-satellite (Earth-to-space) 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) US319 US380 AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE (Earth-to-space) 5.341 5.364 5.366 5.367 5.368 5.372 US208	Satellite Communications (25) Aviation (87)
1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION 5.149 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.371 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION RADIODETERMINATION-SATELLITE (Earth-to-space) 5.149 5.341 5.364 5.366 5.367 5.368 5.370 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION Radiodetermination-satellite (Earth-to-space) 5.149 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) US319 US380 RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE (Earth-to-space) 5.341 5.364 5.366 5.367 5.368 5.372 US208 US342	
1613.8-1621.35 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Mobile-satellite (space-to-Earth) 5.208B 5.341 5.355 5.359 5.364 5.365 5.366 5.367 5.368 5.369 5.371 5.372	1613.8-1621.35 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION RADIODETERMINATION-SATELLITE (Earth-to-space) Mobile-satellite (space-to-Earth) 5.208B 5.341 5.364 5.365 5.366 5.367 5.368 5.370 5.372	1613.8-1621.35 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Mobile-satellite (space-to-Earth) 5.208B Radiodetermination-satellite (Earth-to-space) 5.341 5.355 5.359 5.364 5.365 5.366 5.367 5.368 5.369 5.372	1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) US319 US380 AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE (Earth-to-space) Mobile-satellite (space-to-Earth)	
1621.35-1626.5 MARITIME MOBILE-SATELLITE (space-to-Earth) 5.373 5.373A MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Mobile-satellite (space-to-Earth) except maritime mobile-satellite (space-to-Earth) 5.208B 5.341 5.355 5.359 5.364 5.365 5.366 5.367 5.368 5.369 5.371 5.372	1621.35-1626.5 MARITIME MOBILE-SATELLITE (space-to-Earth) 5.373 5.373A MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION RADIODETERMINATION-SATELLITE (Earth-to-space) Mobile-satellite (space-to-Earth) except maritime mobile-satellite (space-to-Earth) 5.208B 5.341 5.364 5.365 5.366 5.367 5.368 5.370 5.372	1621.35-1626.5 MARITIME MOBILE-SATELLITE (space-to-Earth) 5.373 5.373A MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Mobile-satellite (space-to-Earth) except maritime mobile-satellite (space-to-Earth) Radiodetermination-satellite (Earth-to-space) 5.208B 5.341 5.355 5.359 5.364 5.365 5.366 5.367 5.368 5.369 5.372	5.341 5.364 5.365 5.366 5.367 5.368 5.372 US208	

		2310-2320 Fixed Mobile US100 Radiolocation G2 US97 US327	2310-2320 FIXED MOBILE BROADCASTING-SATELLITE RADIOLOCATION US97 US100 US327	Wireless Communications (27)
		2320-2345 Fixed Radiolocation G2 US327	2320-2345 BROADCASTING-SATELLITE US327	Satellite Communications (25)
		2345-2360 Fixed Mobile US100 Radiolocation G2 US327	2345-2360 FIXED MOBILE US100 BROADCASTING-SATELLITE RADIOLOCATION US327	Wireless Communications (27)
		2360-2390 MOBILE US276 RADIOLOCATION G2 G120 Fixed US101	2360-2390 MOBILE US276 US101	Aviation (87) Personal Radio (95)
		2390-2395 MOBILE US276 US101	2390-2395 AMATEUR MOBILE US276 US101	Aviation (87) Personal Radio (95) Amateur Radio (97)
		2395-2400 US101 G122	2395-2400 AMATEUR US101	Personal Radio (95) Amateur Radio (97)
		2400-2417 5.150 G122	2400-2417 AMATEUR 5.150 5.282	RF Devices (15) ISM Equipment (18) Amateur Radio (97)
5.150 5.282 5.395	5.150 5.282 5.393 5.394	2417-2450 Radiolocation G2 5.150	2417-2450 Amateur 5.150 5.282	
2450-2483.5 FIXED MOBILE Radiolocation 5.150	2450-2483.5 FIXED MOBILE RADIOLOCATION 5.150	2450-2483.5 5.150 US41	2450-2483.5 FIXED MOBILE Radiolocation 5.150 US41	RF Devices (15) ISM Equipment (18) TV Auxiliary Broadcasting (74F) Private Land Mobile (90) Fixed Microwave (101)

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2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 Radiolocation 5.398A	2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A RADIOLOCATION RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398	2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A RADIOLOCATION RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398	2483.5-2500 MOBILE-SATELLITE (space-to-Earth) US319 US380 US391 RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398	2483.5-2495 MOBILE-SATELLITE (space-to-Earth) US380 RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 5.150 5.402 US41 US319 NG147	ISM Equipment (18) Satellite Communications (25)
				2495-2500 FIXED MOBILE except aeronautical mobile MOBILE-SATELLITE (space-to-Earth) US380 RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398	ISM Equipment (18) Satellite Communications (25) Wireless Communications (27)
5.150 5.399 5.401 5.402	5.150 5.402	5.150 5.401 5.402	5.150 5.402 US41	5.150 5.402 US41 US319 US391 NG147	
2500-2520 FIXED 5.410 MOBILE except aeronautical mobile 5.384A	2500-2520 FIXED 5.410 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A	2500-2520 FIXED 5.410 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (space-to-Earth) 5.351A 5.407 5.414 5.414A	2500-2655	2500-2655 FIXED US205 MOBILE except aeronautical mobile	Wireless Communications (27)
5.412	5.404	5.404 5.415A			
2520-2655 FIXED 5.410 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416	2520-2655 FIXED 5.410 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416	2520-2535 FIXED 5.410 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.403 5.414A 5.415A			
		2535-2655 FIXED 5.410 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416			
5.339 5.412 5.418B 5.418C	5.339 5.418B 5.418C	5.339 5.418 5.418A 5.418B 5.418C	5.339 US205	5.339	
2655-2670 FIXED 5.410 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.208B 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive)	2655-2670 FIXED 5.410 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive)	2655-2670 FIXED 5.410 FIXED-SATELLITE (Earth-to-space) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive)	2655-2690 Earth exploration-satellite (passive) Radio astronomy US385 Space research (passive)	2655-2690 FIXED US205 MOBILE except aeronautical mobile Earth exploration-satellite (passive) Radio astronomy Space research (passive)	
5.149 5.412	5.149 5.208B	5.149 5.208B 5.420			

2670-2690 FIXED 5.410 MOBILE except aeronautical mobile 5.384A Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.412	2670-2690 FIXED 5.410 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.208B 5.415 MOBILE except aeronautical mobile 5.384A Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149	2670-2690 FIXED 5.410 FIXED-SATELLITE (Earth-to-space) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (Earth-to-space) 5.351A 5.419 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149	US205	US385	
2690-2700 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.422			2690-2700 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
2700-2900 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation 5.423 5.424			2700-2900 METEOROLOGICAL AIDS AERONAUTICAL RADIONAVIGATION 5.337 US18 Radiolocation G2 5.423 G15	2700-2900 5.423 US18	Aviation (87)
2900-3100 RADIOLOCATION 5.424A RADIONAVIGATION 5.426 5.425 5.427			2900-3100 RADIOLOCATION 5.424A G56 MARITIME RADIONAVIGATION 5.427 US44 US316	2900-3100 MARITIME RADIONAVIGATION Radiolocation US44 5.427 US316	Maritime (80) Private Land Mobile (90)
3100-3300 RADIOLOCATION Earth exploration-satellite (active) Space research (active) 5.149 5.428			3100-3300 RADIOLOCATION G59 Earth exploration-satellite (active) Space research (active) US342	3100-3300 Earth exploration-satellite (active) Space research (active) Radiolocation US342	Private Land Mobile (90)
3300-3400 RADIOLOCATION 5.149 5.429 5.429A 5.429B 5.430	3300-3400 RADIOLOCATION Amateur Fixed Mobile 5.149 5.429C 5.429D	3300-3400 RADIOLOCATION Amateur 5.149 5.429 5.429E 5.429F	3300-3500 RADIOLOCATION US431B G2	3300-3450 US103 US342	
3400-3600 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.430A Radiolocation 5.431	3400-3500 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.431A 5.431B Amateur Radiolocation 5.433 5.282	3400-3500 FIXED FIXED-SATELLITE (space-to-Earth) Amateur Mobile 5.432 5.432B Radiolocation 5.433 5.282 5.432A	US103 US342	3450-3600 FIXED MOBILE except aeronautical mobile US103 US105 US431B US433	Wireless Communications (27) Citizens Broadband (96)

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			3550-3650 RADIOLOCATION G59 AERONAUTICAL RADIONAVIGATION (ground-based) G110 US105 US107 US245 US433	3600-3700 FIXED FIXED-SATELLITE (space-to-Earth) US107 US245 NG169 MOBILE except aeronautical mobile US105 US109 US349 US433	Satellite Communications (25) Citizens Broadband (96)
3600-4200 FIXED FIXED-SATELLITE (space-to-Earth) Mobile	3600-3700 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.434 Radiolocation 5.433	3600-3700 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile Radiolocation 5.435	3650-3700 US109 US349		
	3700-4200 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile		3700-4200	3700-4000 FIXED MOBILE except aeronautical mobile NG182 NG457A	Wireless Communications (27)
				4000-4200 FIXED FIXED-SATELLITE (space-to-Earth) NG457A NG182	Satellite Communications (25)
4200-4400 AERONAUTICAL MOBILE (R) 5.436 AERONAUTICAL RADIONAVIGATION 5.438 5.437 5.439 5.440			4200-4400 AERONAUTICAL RADIONAVIGATION 5.440 US261		Aviation (87)
4400-4500 FIXED MOBILE 5.440A			4400-4940 FIXED MOBILE	4400-4500	
4500-4800 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 MOBILE 5.440A				4500-4800 FIXED-SATELLITE (space-to-Earth) 5.441 US245	
4800-4990 FIXED MOBILE 5.440A 5.441A 5.441B 5.442 Radio astronomy 5.149 5.339 5.443			US113 US245 US342	4800-4940 US113 US342	
			4940-4990 5.339 US342 US385 G122	4940-4990 FIXED MOBILE except aeronautical mobile 5.339 US342 US385	Public Safety Land Mobile (90Y)
4990-5000 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY Space research (passive) 5.149			4990-5000 RADIO ASTRONOMY US74 Space research (passive) US246		

5000-5010 AERONAUTICAL MOBILE-SATELLITE (R) 5.443AA AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (Earth-to-space)	5000-5010 AERONAUTICAIOBILE (R) US115 AERONAUTICAL MOBILE-SATELLITE (R) 5.443AA AERONAUTICAL RADIONAVIGATION US260 RADIONAVIGATION-SATELLITE (Earth-to-space) US211		Aviation (87)
5010-5030 AERONAUTICAL MOBILE-SATELLITE (R) 5.443AA AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.443B	5010-5030 AERONAUTICAL MOBILE-SATELLITE (R) 5.443AA AERONAUTICAL RADIONAVIGATION US260 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.443B US115 US211		
5030-5091 AERONAUTICAL MOBILE (R) 5.443C AERONAUTICAL MOBILE-SATELLITE (R) 5.443D AERONAUTICAL RADIONAVIGATION 5.444	5030-5091 AERONAUTICAL MOBILE (R) 5.443C AERONAUTICAL MOBILE-SATELLITE (R) 5.443D AERONAUTICAL RADIONAVIGATION US260 US211 US444		
5091-5150 FIXED-SATELLITE (Earth-to-space) 5.444A AERONAUTICAL MOBILE 5.444B AERONAUTICAL MOBILE-SATELLITE (R) 5.443AA AERONAUTICAL RADIONAVIGATION 5.444	5091-5150 AERONAUTICAL MOBILE US111 US444B AERONAUTICAL MOBILE-SATELLITE (R) 5.443AA AERONAUTICAL RADIONAVIGATION US260 US211 US344 US444 US444A		Satellite Communications (25) Aviation (87)
5150-5250 FIXED-SATELLITE (Earth-to-space) 5.447A MOBILE except aeronautical mobile 5.446A 5.446B AERONAUTICAL RADIONAVIGATION 5.446 5.446C 5.446D 5.447 5.447B 5.447C	5150-5250 AERONAUTICAL RADIONAVIGATION US260 US211 US307 US344	5150-5250 FIXED-SATELLITE (Earth-to-space) 5.447A US344 AERONAUTICAL RADIONAVIGATION US260 5.447C US211 US307	RF Devices (15) Satellite Communications (25) Aviation (87)
5250-5255 EARTH EXPLORATION-SATELLITE (active) MOBILE except aeronautical mobile 5.446A 5.447F RADIOLOCATION SPACE RESEARCH 5.447D 5.447E 5.448 5.448A	5250-5255 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active) 5.447D 5.448A	5250-5255 Earth exploration-satellite (active) Radiolocation Space research	RF Devices (15) Private Land Mobile (90)
5255-5350 EARTH EXPLORATION-SATELLITE (active) MOBILE except aeronautical mobile 5.446A 5.447F RADIOLOCATION SPACE RESEARCH (active) 5.447E 5.448 5.448A	5255-5350 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active) 5.448A	5255-5350 Earth exploration-satellite (active) Radiolocation Space research (active) 5.448A	
5350-5460 EARTH EXPLORATION-SATELLITE (active) 5.448B RADIOLOCATION 5.448D AERONAUTICAL RADIONAVIGATION 5.449 SPACE RESEARCH (active) 5.448C	5350-5460 EARTH EXPLORATION-SATELLITE (active) 5.448B RADIOLOCATION G56 AERONAUTICAL RADIONAVIGATION 5.449 SPACE RESEARCH (active) US390 G130	5350-5460 AERONAUTICAL RADIONAVIGATION 5.449 Earth exploration-satellite (active) 5.448B Radiolocation Space research (active) US390	Aviation (87) Private Land Mobile (90)

13.4-13.65 EARTH EXPLORATION-SATELLITE (active) FIXED-SATELLITE (space-to-Earth) 5.499A 5.499B RADIOLOCATION SPACE RESEARCH 5.499C 5.499D Standard frequency and time signal-satellite (Earth-to-space) 5.499E 5.500 5.501 5.501B	13.4-13.65 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH 5.499C 5.499D Standard frequency and time signal-satellite (Earth-to-space) 5.499 5.500 5.501 5.501B		13.4-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH 5.499C 5.499D 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.501B	13.4-13.75 Earth exploration-satellite (active) Radiolocation Space research Standard frequency and time signal-satellite (Earth-to-space)	Private Land Mobile (90)
13.65-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.499 5.500 5.501 5.501B					
13.75-14 FIXED-SATELLITE (Earth-to-space) 5.484A RADIOLOCATION Earth exploration-satellite Standard frequency and time signal-satellite (Earth-to-space) Space research 5.499 5.500 5.501 5.502 5.503			13.75-14 RADIOLOCATION G59 Standard frequency and time signal-satellite (Earth-to-space) Space research US337 US356 US357	13.75-14 FIXED-SATELLITE (Earth-to-space) US337 Standard frequency and time signal-satellite (Earth-to-space) Space research Radiolocation US356 US357	Satellite Communications (25) Private Land Mobile (90)
14-14.25 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.484B 5.506 5.506B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.504B 5.504C 5.506A Space research 5.504A 5.505			14-14.2 Space research US133	14-14.2 FIXED-SATELLITE (Earth-to-space) NG527A Mobile-satellite (Earth-to-space) Space research US133	Satellite Communications (25)
14.25-14.3 FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.484B 5.506 5.506B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.508A Space research 5.504A 5.505 5.508			14.2-14.4	14.2-14.47 FIXED-SATELLITE (Earth-to-space) NG527A Mobile-satellite (Earth-to-space)	
14.3-14.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.484B 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Radionavigation-satellite 5.504A	14.3-14.4 FIXED-SATELLITE (Earth-to-space) 5.457A 5.484A 5.484B 5.506 5.506B Mobile-satellite (Earth-to-space) 5.506A Radionavigation-satellite 5.504A	14.3-14.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.484A 5.484B 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Radionavigation-satellite 5.504A			
14.4-14.47 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.484B 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Space research (space-to-Earth) 5.504A			14.4-14.47 Fixed Mobile		

15.63-15.7 RADIOLOCATION 5.511E 5.511F AERONAUTICAL RADIONAVIGATION			15.63-15.7 RADIOLOCATION 5.511E 5.511F US511E AERONAUTICAL RADIONAVIGATION US260 US211	15.63-15.7 AERONAUTICAL RADIONAVIGATION US260 US211 US511E	Aviation (87)
15.7-16.6 RADIOLOCATION 5.512 5.513			15.7-16.6 RADIOLOCATION G59	15.7-17.2 Radiolocation	Private Land Mobile (90)
16.6-17.1 RADIOLOCATION Space research (deep space) (Earth-to-space) 5.512 5.513			16.6-17.1 RADIOLOCATION G59 Space research (deep space) (Earth-to-space)		
17.1-17.2 RADIOLOCATION 5.512 5.513			17.1-17.2 RADIOLOCATION G59		
17.2-17.3 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.512 5.513 5.513A			17.2-17.3 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active)	17.2-17.3 Earth exploration-satellite (active) Radiolocation Space research (active)	
17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 (space-to-Earth) 5.516A 5.516B Radiolocation 5.514	17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 BROADCASTING-SATELLITE Radiolocation 5.514 5.515	17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 Radiolocation 5.514	17.3-17.7 Radiolocation US259 G59 US402 G117	17.3-17.7 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) NG527A BROADCASTING-SATELLITE US259 US402 NG58	Satellite Communications (25)
17.7-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A 5.517A (Earth-to-space) 5.516 MOBILE	17.7-17.8 FIXED FIXED-SATELLITE (space-to-Earth) 5.517 5.517A (Earth-to-space) 5.516 BROADCASTING-SATELLITE Mobile 5.515	17.7-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A 5.517A (Earth-to-space) 5.516 MOBILE	17.7-17.8 US334 G117	17.7-17.8 FIXED FIXED-SATELLITE (Earth-to-space) (space-to-Earth) NG527A US334 NG58	Satellite Communications (25) TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
	17.8-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A 5.517A (Earth-to-space) 5.516 MOBILE 5.519		17.8-18.6 FIXED-SATELLITE (space-to-Earth) US334 G117	17.8-18.3 FIXED Fixed-satellite (space-to-Earth) NG527A US334 US519	
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18.8-19.3 FIXED FIXED-SATELLITE (space-to-Earth) 5.516B 5.517A 5.523A MOBILE			18.8-20.2 FIXED-SATELLITE (space-to-Earth) US334 G117	18.8-19.3 FIXED-SATELLITE (space-to-Earth) NG165 NG527A US139 US334	
19.3-19.7 FIXED FIXED-SATELLITE (space-to-Earth) (Earth-to-space) 5.517A 5.523B 5.523C 5.523D 5.523E MOBILE				19.3-19.7 FIXED FIXED-SATELLITE (space-to-Earth) NG166 US334 NG527A	Satellite Communications (25) TV Broadcast Auxiliary (74F) Cable TV Relay (78) Fixed Microwave (101)
19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A 5.484B 5.516B 5.527A Mobile-satellite (space-to-Earth) 5.524	19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A 5.484B 5.516B 5.527A MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528 5.529	19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A 5.484B 5.516B 5.527A Mobile-satellite (space-to-Earth) 5.524		19.7-20.2 FIXED-SATELLITE (space-to-Earth) NG527A MOBILE-SATELLITE (space-to-Earth)	Satellite Communications (25)
20.1-20.2 FIXED-SATELLITE (space-to-Earth) 5.484A 5.484B 5.516B 5.527A MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528			US139	5.525 5.526 5.527 5.528 5.529 US334	
20.2-21.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Standard frequency and time signal-satellite (space-to-Earth) 5.524			20.2-21.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Standard frequency and time signal-satellite (space-to-Earth) G117	20.2-21.2 Standard frequency and time signal-satellite (space-to-Earth)	
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21.4-22 FIXED MOBILE BROADCASTING-SATELLITE 5.208B 5.530A 5.530B	21.4-22 FIXED 5.530E MOBILE 5.530A	21.4-22 FIXED MOBILE BROADCASTING-SATELLITE 5.208B 5.530A 5.530B 5.531	21.4-22 FIXED MOBILE		

22-22.21 FIXED MOBILE except aeronautical mobile 5.149			22-22.21 FIXED MOBILE except aeronautical mobile US342		
22.21-22.5 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) 5.149 5.532			22.21-22.5 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) US342 US532		
22.5-22.55 FIXED MOBILE			22.5-22.55 FIXED MOBILE US211		
22.55-23.15 FIXED INTER-SATELLITE 5.338A MOBILE SPACE RESEARCH (Earth-to-space) 5.532A 5.149			22.55-23.15 FIXED INTER-SATELLITE US145 US278 MOBILE SPACE RESEARCH (Earth-to-space) 5.532A US342		Satellite Communications (25) Fixed Microwave (101)
23.15-23.55 FIXED INTER-SATELLITE 5.338A MOBILE			23.15-23.55 FIXED INTER-SATELLITE US145 US278 MOBILE		
23.55-23.6 FIXED MOBILE			23.55-23.6 FIXED MOBILE		Fixed Microwave (101)
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24.05-24.25 RADIOLOCATION Amateur Earth exploration-satellite (active) 5.150			24.05-24.25 RADIOLOCATION G59 Earth exploration-satellite (active) 5.150	24.05-24.25 Amateur Earth exploration-satellite (active) Radiolocation 5.150	RF Devices (15) ISM Equipment (18) Private Land Mobile (90) Amateur Radio (97)
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24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.532B MOBILE except aeronautical mobile 5.338A 5.532AB	24.75-25.25 FIXED 5.532AA FIXED-SATELLITE (Earth-to-space) 5.535 MOBILE except aeronautical mobile 5.338A 5.532AB	24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.535 MOBILE 5.338A 5.532AB	24.75-25.25 / 24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE NG65	RF Devices (15) Satellite Communications (25) Upper Microwave Flexible Use (30)
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28.5-29.1 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.517A 5.523A 5.539 MOBILE Earth exploration-satellite (Earth-to-space) 5.541 5.540				NG62	
29.1-29.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.516B 5.517A 5.523C 5.523E 5.535A 5.539 5.541A MOBILE Earth exploration-satellite (Earth-to-space) 5.541 5.540				29.1-29.25 FIXED FIXED-SATELLITE (Earth-to-space) NG166 MOBILE 29.25-29.5 FIXED-SATELLITE (Earth-to-space) NG527A NG535A NG62	Satellite Communications (25) Fixed Microwave (101) Satellite Communications (25)
29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.484B 5.516B 5.527A 5.539 Earth exploration-satellite (Earth-to-space) 5.541 Mobile-satellite (Earth-to-space) 5.540 5.542	29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.484B 5.516B 5.527A 5.539 MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (Earth-to-space) 5.541 5.525 5.526 5.527 5.529 5.540	29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.484B 5.516B 5.527A 5.539 Earth exploration-satellite (Earth-to-space) 5.541 Mobile-satellite (Earth-to-space) 5.540 5.542		29.5-30 FIXED-SATELLITE (Earth-to-space) NG527A MOBILE-SATELLITE (Earth-to-space)	
29.9-30 FIXED-SATELLITE (Earth-to-space) 5.484A 5.484B 5.516B 5.527A 5.539 MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (Earth-to-space) 5.541 5.543 5.525 5.526 5.527 5.538 5.540 5.542				5.525 5.526 5.527 5.529 5.543	
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40-40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED FIXED-SATELLITE (space-to-Earth) 5.516B 5.550C MOBILE 5.550B MOBILE-SATELLITE (space-to-Earth) SPACE RESEARCH (Earth-to-space) Earth exploration-satellite (space-to-Earth) 5.550E			40-40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) SPACE RESEARCH (Earth-to-space) Earth exploration-satellite (space-to-Earth) G117	40-40.5 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US382	Satellite Communications (25)
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41-42.5 FIXED FIXED-SATELLITE (space-to-Earth) 5.516B 5.550C LAND MOBILE 5.550B BROADCASTING BROADCASTING-SATELLITE Aeronautical mobile Maritime mobile 5.547 5.551F 5.551H 5.551I			41-42.5 US211	41-42 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE US211	

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71-74 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)	71-74 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) US389		Fixed Microwave (101)
74-76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE Space research (space-to-Earth) 5.561	74-76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Space research (space-to-Earth) US389	74-76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE Space research (space-to-Earth) US389	RF Devices (15) Fixed Microwave (101)
76-77.5 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) 5.149	76-81 RADIO ASTRONOMY RADIOLOCATION Space research (space-to-Earth)	76-77 RADIO ASTRONOMY RADIOLOCATION Amateur Space research (space-to-Earth) US342	RF Devices (15) Personal Radio (95) Amateur Radio (97)
77.5-78 AMATEUR AMATEUR-SATELLITE RADIOLOCATION 5.559B Radio astronomy Space research (space-to-Earth) 5.149		77-81 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth)	
78-79 RADIOLOCATION Amateur Amateur-satellite Radio astronomy Space research (space-to-Earth) 5.149 5.560			
79-81 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) 5.149	5.560 US342	5.560 US342	

155.5-158.5 FIXED MOBILE RADIO ASTRONOMY 5.149	155.5-158.5 FIXED MOBILE RADIO ASTRONOMY US342	
158.5-164 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)	158.5-164 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) US211	
164-167 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340	164-167 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246	
167-174.5 FIXED FIXED-SATELLITE (space-to-Earth) INTER-SATELLITE MOBILE 5.558 5.149 5.562D	167-174.5 FIXED FIXED-SATELLITE (space-to-Earth) INTER-SATELLITE MOBILE 5.558 US211 US342	
174.5-174.8 FIXED INTER-SATELLITE MOBILE 5.558	174.5-174.8 FIXED INTER-SATELLITE MOBILE 5.558	
174.8-182 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562H SPACE RESEARCH (passive)	174.8-182 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562H SPACE RESEARCH (passive)	
182-185 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340	182-185 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) US246	
185-190 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562H SPACE RESEARCH (passive)	185-190 EARTH EXPLORATION-SATELLITE (passive) INTER-SATELLITE 5.562H SPACE RESEARCH (passive)	
190-191.8 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) 5.340	190-191.8 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US246	Page 66

238-240 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE RADIOLOCATION RADIONAVIGATION RADIONAVIGATION-SATELLITE	238-240 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE RADIOLOCATION RADIONAVIGATION RADIONAVIGATION-SATELLITE		
240-241 FIXED MOBILE RADIOLOCATION	240-241 FIXED MOBILE RADIOLOCATION		
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248-250 AMATEUR AMATEUR-SATELLITE Radio astronomy 5.149	248-250 Radio astronomy US342	248-250 AMATEUR AMATEUR-SATELLITE Radio astronomy US342	Amateur Radio (97)
250-252 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.563A	250-252 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.563A US246		
252-265 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.149 5.554	252-265 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554 US211 US342		
265-275 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY 5.149 5.563A	265-275 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY 5.563A US342		
275-3000 (Not allocated) 5.564A 5.565	275-3000 (Not allocated) US565		Amateur Radio (97) Page 68

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(b) * * *

(67) 5.67 *Additional allocation:* in Kyrgyzstan and Turkmenistan, the frequency band 130–148.5 kHz is also allocated to the radionavigation service on a secondary basis. Within and

between these countries this service shall have an equal right to operate.

* * * * *

(ii) 5.67B The use of the frequency band 135.7–137.8 kHz in Algeria, Egypt, Iraq, Lebanon, Syrian Arab Republic, Sudan, South Sudan and Tunisia is limited to the fixed and maritime mobile services. The amateur service shall not be used in the previously-mentioned countries in the frequency band 135.7–137.8 kHz, and this should be taken into account by the countries authorizing such use.

* * * * *

(70) 5.70 *Alternative allocation:* in Angola, Botswana, Burundi, the Central African Rep., Congo (Rep. of the), Eswatini, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Nigeria, Oman, the Dem. Rep. of the Congo, South Africa, Tanzania, Chad, Zambia and Zimbabwe, the frequency band 200–283.5 kHz is allocated to the aeronautical radionavigation service on a primary basis.

* * * * *

(77) 5.77 *Different category of service:* in Australia, China, the French overseas communities of Region 3, Korea (Rep. of), India, Iran (Islamic Republic of), Japan, Pakistan, Papua New Guinea, the Dem. People's Rep. of Korea and Sri Lanka, the allocation of the frequency band 415–495 kHz to the aeronautical radionavigation service is on a primary basis. In Armenia, Azerbaijan, Belarus, the Russian Federation, Kazakhstan, Latvia, Uzbekistan and Kyrgyzstan, the allocation of the frequency band 435–495 kHz to the aeronautical radionavigation service is on a primary basis. Administrations in all the aforementioned countries shall take all practical steps necessary to ensure that aeronautical radionavigation stations in the frequency band 435–495 kHz do not cause interference to reception by coast stations of transmissions from ship stations on frequencies designated for ship stations on a worldwide basis.

* * * * *

(79) 5.79 In the maritime mobile service, the frequency bands 415–495 kHz and 505–526.5 kHz are limited to radiotelegraphy and may also be used for the NAVDAT system in accordance with the most recent version of Recommendation ITU–R M.2010, subject to agreement between interested and affected administrations. NAVDAT transmitting stations are limited to coast stations.

* * * * *

(82) * * *

(i) 5.82C The frequency band 495–505 kHz is used for the international NAVDAT system as described in the most recent version of Recommendation ITU–R M.2010. NAVDAT transmitting stations are limited to coast stations.

(ii) [Reserved]

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(87) 5.87 *Additional allocation:* in Angola, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia and Niger, the frequency band 526.5–535 kHz is also allocated to the mobile service on a secondary basis.

* * * * *

(107) 5.107 *Additional allocation:* in Saudi Arabia, Eritrea, Eswatini, Ethiopia, Iraq, Libya and Somalia, the frequency band 2160–2170 kHz is also allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis. The mean power of stations in these services shall not exceed 50 W.

* * * * *

(109) 5.109 The frequencies 2187.5 kHz, 4207.5 kHz, 6312 kHz, 8414.5 kHz, 12 577 kHz and 16 804.5 kHz are international distress frequencies for digital selective calling. The conditions for the use of these frequencies are prescribed in Article 31.

(110) 5.110 The frequencies 2174.5 kHz, 4177.5 kHz, 6268 kHz, 8376.5 kHz, 12 520 kHz and 16 695 kHz are international distress frequencies for narrow-band direct-printing telegraphy. The conditions for the use of these frequencies are prescribed in Article 31.

(111) 5.111 The carrier frequencies 2182 kHz, 3023 kHz, 5680 kHz, 8364 kHz and the frequencies 121.5 MHz, 156.525 MHz, 156.8 MHz and 243 MHz may also be used, in accordance with the procedures in force for terrestrial radiocommunication services, for search and rescue operations concerning manned space vehicles. The conditions for the use of the frequencies are prescribed in Article 31. The same applies to the frequencies 10 003 kHz, 14 993 kHz and 19 993 kHz, but in each of these cases emissions must be confined in a band of ± 3 kHz about the frequency.

(112) 5.112 *Alternative allocation:* in Sri Lanka, the frequency band 2194–2300 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

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(114) 5.114 *Alternative allocation:* in Iraq, the frequency band 2502–2625 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

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(117) 5.117 *Alternative allocation:* in Côte d'Ivoire, Egypt, Liberia, Sri Lanka and Togo, the frequency band 3155–3200 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(118) 5.118 *Additional allocation:* in the United States, Mexico and Peru, the frequency band 3230–3400 kHz is also allocated to the radiolocation service on a secondary basis.

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(123) 5.123 *Additional allocation:* in Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe, the frequency band 3900–3950 kHz is also allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

* * * * *

(128) 5.128 Frequencies in the frequency bands 4063–4123 kHz and 4130–4438 kHz may be used exceptionally by stations in the fixed service, communicating only within the boundary of the country in which they are located, with a mean power not exceeding 50 W, on condition that harmful interference is not caused to the maritime mobile service. In addition, in Afghanistan, Argentina, Armenia, Belarus, Botswana, Burkina Faso, the Central African Rep., China, the Russian Federation, Georgia, India, Kazakhstan, Mali, Niger, Pakistan, Kyrgyzstan, Tajikistan, Chad, Turkmenistan and Ukraine, in the frequency bands 4063–4123 kHz, 4130–4133 kHz and 4408–4438 kHz, stations in the fixed service, with a mean power not exceeding 1 kW, can be operated on condition that they are situated at least 600 km from the coast and that harmful interference is not caused to the maritime mobile service.

* * * * *

(132) 5.132 The frequencies 4210 kHz, 6314 kHz, 8416.5 kHz, 12579 kHz, 16 806.5 kHz, 19 680.5 kHz, 22 376 kHz and 26 100.5 kHz are the international frequencies for the transmission of maritime safety information (MSI) (see Appendix 17).

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(ii) 5.132B *Alternative allocation:* in Armenia, Belarus, Moldova and Kyrgyzstan, the frequency band 4438–4488 kHz is allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis.

(133) * * *

(i) 5.133A *Alternative allocation:* in Armenia, Belarus, Moldova and Kyrgyzstan, the frequency bands 5250–5275 kHz and 26 200–26 350 kHz are allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(ii) 5.133B Stations in the amateur service using the frequency band

5351.5–5366.5 kHz shall not exceed a maximum radiated power of 15 W (e.i.r.p.). However, in Region 2 in Mexico, stations in the amateur service using the frequency band 5351.5–5366.5 kHz shall not exceed a maximum radiated power of 20 W (e.i.r.p.). In the following Region 2 countries: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Dominica, El Salvador, Ecuador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, Venezuela, as well as the overseas countries and territories within the Kingdom of the Netherlands in Region 2, stations in the amateur service using the frequency band 5351.5–5366.5 kHz shall not exceed a maximum radiated power of 25 W (e.i.r.p.).

(134) 5.134 The use of the frequency bands 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11 600–11 650 kHz, 12 050–12 100 kHz, 13 570–13 600 kHz, 13 800–13 870 kHz, 15 600–15 800 kHz, 17 480–17 550 kHz and 18 900–19 020 kHz by the broadcasting service is subject to the application of the procedure of Article 12. Administrations are encouraged to use these frequency bands to facilitate the introduction of digitally modulated emissions in accordance with the provisions of Resolution 517 (Rev.WRC–19).

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(141) * * *

(ii) 5.141B *Additional allocation:* in Algeria, Saudi Arabia, Australia, Bahrain, Botswana, Brunei Darussalam, China, Comoros, Korea (Rep. of), Diego Garcia, Djibouti, Egypt, United Arab Emirates, Eritrea, Guinea, Indonesia, Iran (Islamic Republic of), Japan, Jordan, Kuwait, Libya, Mali, Morocco, Mauritania, Niger, New Zealand, Oman, Papua New Guinea, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Sudan, South Sudan, Tunisia, Viet Nam and Yemen, the frequency band 7100–7200 kHz is also allocated to the fixed and the mobile, except aeronautical mobile (R), services on a primary basis.

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(145) 5.145 The conditions for the use of the carrier frequencies 8291 kHz, 12 290 kHz and 16 420 kHz are prescribed in Articles 31 and 52.

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(ii) 5.145B *Alternative allocation:* in Armenia, Belarus, Moldova and Kyrgyzstan, the frequency bands 9305–9355 kHz and 16 100–16 200 kHz are allocated to the fixed service on a primary basis.

(146) 5.146 *Additional allocation:* frequencies in the bands 9400–9500 kHz, 11 600–11 650 kHz, 12 050–12 100 kHz, 15 600–15 800 kHz, 17 480–17 550 kHz and 18 900–19 020 kHz may be used by stations in the fixed service, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies in the fixed service, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

(147) 5.147 On condition that harmful interference is not caused to the broadcasting service, frequencies in the bands 9775–9900 kHz, 11 650–11 700 kHz and 11 975–12 050 kHz may be used by stations in the fixed service communicating only within the boundary of the country in which they are located, each station using a total radiated power not exceeding 24 dBW.

* * * * *

(149) 5.149 In making assignments to stations of other services to which the bands listed in table 1 to paragraph (b)(149) of this section are allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 4.5 and 4.6 and Article 29).

TABLE 1 TO PARAGRAPH (b)(149) INTRODUCTORY TEXT

13 360–13 410 kHz	23.07–23.12 GHz.
25 550–25 670 kHz	31.2–31.3 GHz.
37.5–38.25 MHz	31.5–31.8 GHz in Regions 1 and 3.
73–74.6 MHz in Regions 1 and 3	36.43–36.5 GHz.
150.05–153 MHz in Region 1	42.5–43.5 GHz.
322–328.6 MHz	48.94–49.04 GHz.
406.1–410 MHz	76–86 GHz.
608–614 MHz in Regions 1 and 3	92–94 GHz.
1330–1400 MHz	94.1–100 GHz.
1610.6–1613.8 MHz	102–109.5 GHz.
1660–1670 MHz	111.8–114.25 GHz.
1718.8–1722.2 MHz	128.33–128.59 GHz.
2655–2690 MHz	129.23–129.49 GHz.
3260–3267 MHz	130–134 GHz.
3332–3339 MHz	136–148.5 GHz.
3345.8–3352.5 MHz	151.5–158.5 GHz.
4825–4835 MHz	168.59–168.93 GHz.
4950–4990 MHz	171.11–171.45 GHz.
4990–5000 MHz	172.31–172.65 GHz.
6650–6675.2 MHz	173.52–173.85 GHz.
10.6–10.68 GHz	195.75–196.15 GHz.
14.47–14.5 GHz	209–226 GHz.
22.01–22.21 GHz	241–250 GHz.
22.21–22.5 GHz	252–275 GHz.
22.81–22.86 GHz.	

(i) 5.149A *Alternative allocation:* in Armenia, Belarus, Moldova and Kyrgyzstan, the frequency band 13 450–13 550 kHz is allocated to the fixed service on a primary basis and to the mobile, except aeronautical mobile (R), service on a secondary basis.

(ii) [Reserved]

(150) 5.150 The following bands: 13 553–13 567 kHz (centre frequency 13 560 kHz), 26 957–27 283 kHz (centre frequency 27 120 kHz), 40.66–40.70 MHz (centre frequency 40.68 MHz), 902–928 MHz in Region 2 (centre frequency 915 MHz), 2400–2500 MHz (centre frequency 2450 MHz), 5725–5875 MHz (centre frequency 5800 MHz), and 24–24.25 GHz (centre frequency 24.125 GHz) are also designated for industrial, scientific and medical (ISM) applications. Radiocommunication services operating within these bands must accept harmful interference which may be caused by these applications. ISM equipment operating in these bands is subject to the provisions of No. 15.13.

(151) 5.151 *Additional allocation:* frequencies in the bands 13 570–13 600 kHz and 13 800–13 870 kHz may be used by stations in the fixed service and in the mobile except aeronautical mobile (R) service, communicating only within the boundary of the country in which they are located, on the condition that harmful interference is not caused to the broadcasting service. When using frequencies in these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

(152) 5.152 *Additional allocation:* in Armenia, Azerbaijan, China, Côte d'Ivoire, the Russian Federation, Georgia, Iran (Islamic Republic of), Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 14 250–14 350 kHz is also allocated to the fixed service on a primary basis. Stations of the fixed service shall not use a radiated power exceeding 24 dBW.

(153) 5.153 In Region 3, the stations of those services to which the band 15 995–16 005 kHz is allocated may transmit standard frequency and time signals.

(154) 5.154 *Additional allocation:* in Armenia, Azerbaijan, the Russian Federation, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 18 068–18 168 kHz is also allocated to the fixed service on a primary basis for use within their boundaries, with a peak envelope power not exceeding 1 kW.

(155) 5.155 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ikraine, the band 21 850–21 870 kHz is also allocated to the aeronautical mobile (R) service on a primary basis.

(i) 5.155A In Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the use of the band 21 850–21 870 kHz by the fixed service is limited to provision of services related to aircraft flight safety.

(ii) 5.155B The band 21 870–21 924 kHz is used by the fixed service for provision of services related to aircraft flight safety.

(156) 5.156 *Additional allocation:* in Nigeria, the band 22 720–23 200 kHz is also allocated to the meteorological aids service (radiosondes) on a primary basis.

(i) 5.156A The use of the band 23 200–23 350 kHz by the fixed service is limited to provision of services related to aircraft flight safety.

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(157) 5.157 The use of the band 23 350–24 000 kHz by the maritime mobile service is limited to inter-ship radiotelegraphy.

(158) 5.158 *Alternative allocation:* in Armenia, Belarus, Moldova and Kyrgyzstan, the frequency band 24 450–24 600 kHz is allocated to the fixed and land mobile services on a primary basis.

(159) 5.159 *Alternative allocation:* in Armenia, Belarus, Moldova and Kyrgyzstan, the frequency band 39–39.5 MHz is allocated to the fixed and mobile services on a primary basis.

* * * * *

(161) * * *

(i) 5.161A *Additional allocation:* in Korea (Rep. of), the United States and Mexico, the frequency bands 41.015–41.665 MHz and 43.35–44 MHz are also allocated to the radiolocation service on a primary basis. Stations in the radiolocation service shall not cause harmful interference to, or claim protection from, stations operating in the fixed or mobile services. Applications of the radiolocation service are limited to oceanographic radars operating in accordance with Resolution 612 (Rev.WRC–12).

(ii) 5.161B *Alternative allocation:* in Albania, Germany, Armenia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Cyprus, Vatican, Croatia, Denmark, Spain, Estonia, Finland, France, Greece, Hungary, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, North Macedonia, Malta, Moldova, Monaco, Montenegro, Norway, Uzbekistan, Netherlands, Portugal, Kyrgyzstan, Slovakia, Czech Rep., Romania, United Kingdom, San Marino, Slovenia, Sweden, Switzerland, Turkey and Ukraine, the frequency band 42–42.5 MHz is allocated to the fixed and mobile services on a primary basis.

(162) * * *

(i) 5.162A *Additional allocation:* in Germany, Austria, Belgium, Bosnia and Herzegovina, China, Vatican, Denmark, Spain, Estonia, the Russian Federation, Finland, France, Ireland, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, North Macedonia, Monaco, Montenegro, Norway, the Netherlands, Poland, Portugal, the Czech Rep., the United Kingdom, Serbia, Slovenia, Sweden and Switzerland the frequency band 46–68 MHz is also allocated to the radiolocation service on a secondary basis. This use is limited to the operation of wind profiler radars in accordance with Resolution 217 (WRC–97).

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(163) 5.163 *Additional allocation:* in Armenia, Belarus, the Russian Federation, Georgia, Kazakhstan, Latvia, Moldova, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the frequency bands 47–48.5 MHz and 56.5–58 MHz are also allocated to the fixed and land mobile services on a secondary basis.

(164) 5.164 *Additional allocation:* in Albania, 'lgeria, Germany, Austria, Belgium, Bosnia and Herzegovina, Botswana, Bulgaria, Côte d'Ivoire, Croatia, Denmark, Spain, Estonia, Eswatini, Finland, France, Gabon, Greece, Hungary, Ireland, Israel, Italy, Jordan, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Morocco, Mauritania, Monaco, Montenegro, Nigeria, Norway, the Netherlands, Poland, Syrian Arab Republic, Slovakia, Czech Rep., Romania, the United Kingdom, Serbia, Slovenia, Sweden, Switzerland, Chad, Togo, Tunisia and Turkey, the frequency band 47–68 MHz, in South Africa the frequency band 47–50 MHz, and in Latvia the frequency bands 48.5–56.5 MHz and 58–68 MHz, are also allocated to the land mobile service on a primary basis. However, stations of the land mobile service in the countries mentioned in connection with each frequency band referred to in this footnote shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations of countries other than those mentioned in connection with the frequency band.

(165) 5.165 *Additional allocation:* in Angola, Cameroon, Congo (Rep. of the), Egypt, Madagascar, Mozambique, Niger, Somalia, Sudan, South Sudan, Tanzania and Chad, the frequency band 47–68 MHz is also allocated to the fixed and

mobile, except aeronautical mobile, services on a primary basis.

(166)(i) 5.166A *Different category of service:* in Austria, Cyprus, the Vatican, Croatia, Denmark, Spain, Finland, Hungary, Latvia, the Netherlands, the Czech Republic, the United Kingdom, Slovakia and Slovenia, the frequency band 50.0–50.5 MHz is allocated to the amateur service on a primary basis. Stations in the amateur service in these countries shall not cause harmful interference to, or claim protection from, stations of the broadcasting, fixed and mobile services operating in accordance with the Radio Regulations in the frequency band 50.0–50.5 MHz in the countries not listed in this provision. For a station of these services, the protection criteria in paragraph (b)(169)(ii) of this section shall also apply. In Region 1, with the exception of those countries listed in paragraph (b)(169) of this section, wind profiler radars operating in the radiolocation service under paragraph (b)(162)(i) of this section are authorized to operate on the basis of equality with stations in the amateur service in the frequency band 50.0–50.5 MHz.

(ii) 5.166B In Region 1, stations in the amateur service operating on a secondary basis shall not cause harmful interference to, or claim protection from, stations of the broadcasting service. The field strength generated by an amateur station in Region 1 in the frequency band 50–52 MHz shall not exceed a calculated value of +6 dB(μV/m) at a height of 10 m above ground for more than 10% of time along the border of a country with operational analogue broadcasting stations in Region 1 and of neighbouring countries with broadcasting stations in Region 3 listed in paragraphs (b)(167) and (b)(168) of this section.

(iii) 5.166C In Region 1, stations in the amateur service in the frequency band 50–52 MHz, with the exception of those countries listed in paragraph (b)(169) of this section, shall not cause harmful interference to, or claim protection from, wind profiler radars operating in the radiolocation service under paragraph (b)(162)(i) of this section.

(iv) 5.166D *Different category of service:* in Lebanon, the frequency band 50–52 MHz is allocated to the amateur service on a primary basis. Stations in the amateur service in Lebanon shall not cause harmful interference to, or claim protection from, stations of the broadcasting, fixed and mobile services operating in accordance with the Radio Regulations in the frequency band 50–52 MHz in the countries not listed in this provision.

(v) 5.166E In the Russian Federation, only the frequency band 50.080–50.280 MHz is allocated to the amateur service on a secondary basis. The protection criteria for the other services in the countries not listed in this provision are specified in paragraphs (b)(166)(ii) and (b)(169)(ii) of this section.

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(169) 5.169 *Alternative allocation:* in Botswana, Eswatini, Lesotho, Malawi, Namibia, Rwanda, South Africa, Zambia and Zimbabwe, the frequency band 50–54 MHz is allocated to the amateur service on a primary basis. In Senegal, the frequency band 50–51 MHz is allocated to the amateur service on a primary basis.

(i) 5.169A *Alternative allocation:* in the following countries in Region 1: Angola, Saudi Arabia, Bahrain, Burkina Faso, Burundi, the United Arab Emirates, Gambia, Jordan, Kenya, Kuwait, Mauritius, Mozambique, Oman, Uganda, Qatar, South Sudan and Tanzania, the frequency band 50–54 MHz is allocated to the amateur service on a primary basis. In Guinea-Bissau, the frequency band 50.0–50.5 MHz is allocated to the amateur service on a primary basis. In Djibouti, the frequency band 50–52 MHz is allocated to the amateur service on a primary basis. With the exception of those countries listed in this paragraph (b)(169), stations in the amateur service operating in Region 1 under this footnote, in all or part of the frequency band 50–54 MHz, shall not cause harmful interference to, or claim protection from, stations of other services operating in accordance with the Radio Regulations in Algeria, Egypt, Iran (Islamic Republic of), Iraq, Israel, Libya, Palestine, the Syrian Arab Republic, the Dem. People's Republic of Korea, Sudan and Tunisia. The field strength generated by an amateur station in the frequency band 50–54 MHz shall not exceed a value of +6 dB(μV/m) at a height of 10 m above ground for more than 10% of time along the borders of listed countries requiring protection.

Note 1 to § 2.106(b)(169)(i): Pursuant to Resolution 99 (Rev. Dubai, 2018) and taking into account the Israeli-Palestinian Interim Agreement of 28 September 1995.

(ii) 5.169B Except countries listed under this paragraph (b)(169), stations in the amateur service used in Region 1, in all or part of the 50–54 MHz frequency band, shall not cause harmful interference to, or claim protection from, stations of other services used in accordance with the Radio Regulations in Algeria, Armenia, Azerbaijan, Belarus, Egypt, Russian Federation, Iran (Islamic Republic of), Iraq, Kazakhstan, Kyrgyzstan, Libya, Uzbekistan, Palestine, the Syrian Arab Republic, Sudan, Tunisia and Ukraine. The field strength generated by an amateur station in the frequency band 50–54 MHz shall not exceed a value of +6 dB(μV/m) at a height of 10 m above ground for more than 10% of time along the borders of the countries listed in this provision.

Note 2 to § 2.106(b)(169)(ii): Pursuant to Resolution 99 (Rev. Dubai, 2018) and taking into account the Israeli-Palestinian Interim Agreement of 28 September 1995.

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(171) 5.171 *Additional allocation:* in Botswana, Eswatini, Lesotho, Malawi, Mali, Namibia, Dem. Rep. of the Congo, Rwanda, South Africa, Zambia and Zimbabwe, the frequency band 54–68 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

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(194) 5.194 *Additional allocation:* in Kyrgyzstan, Somalia and Turkmenistan, the frequency band 104–108 MHz is also allocated to the mobile, except aeronautical mobile (R), service on a secondary basis.

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(201) 5.201 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, Estonia, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Iraq (Republic of), Japan, Kazakhstan, Mali, Mongolia, Mozambique, Uzbekistan, Papua New Guinea, Poland, Kyrgyzstan, Romania, Senegal, Tajikistan, Turkmenistan and Ukraine, the frequency band 132–136 MHz is also allocated to the aeronautical mobile (OR) service on a primary basis. In assigning frequencies to stations of the aeronautical mobile (OR) service, the administration shall take account of the frequencies assigned to stations in the aeronautical mobile (R) service.

(202) 5.202 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Bulgaria, the United Arab Emirates, the Russian Federation, Georgia, Iran (Islamic Republic of), Jordan, Mali, Oman, Uzbekistan, Poland, the Syrian Arab Republic, Kyrgyzstan, Romania, Senegal, Tajikistan, Turkmenistan and Ukraine, the frequency band 136–137 MHz is also allocated to the aeronautical mobile (OR) service on a primary basis. In assigning frequencies to stations of the aeronautical mobile (OR) service, the administration shall take account of the frequencies assigned to stations in the aeronautical mobile (R) service.

(203) 5.203C The use of the space operation service (space-to-Earth) with non-geostationary satellite short-

duration mission systems in the frequency band 137–138 MHz is subject to Resolution 660 (WRC–19). Resolution 32 (WRC–19) applies. These systems shall not cause harmful interference to, or claim protection from, the existing services to which the frequency band is allocated on a primary basis.

(204) 5.204 *Different category of service:* in Afghanistan, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, China, Cuba, the United Arab Emirates, India, Indonesia, Iran (Islamic Republic of), Iraq, Kuwait, Montenegro, Oman, Pakistan, the Philippines, Qatar, Singapore, Thailand and Yemen, the frequency band 137–138 MHz is allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis (see No. 5.33).

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(208) * * *

(i) 5.208A In making assignments to space stations in the mobile-satellite service in the frequency bands 137–138 MHz, 387–390 MHz and 400.15–401 MHz and in the maritime mobile-satellite service (space-to-Earth) in the frequency bands 157.1875–157.3375 MHz and 161.7875–161.9375 MHz, administrations shall take all practicable steps to protect the radio astronomy service in the frequency bands 150.05–153 MHz, 322–328.6 MHz, 406.1–410 MHz and 608–614 MHz from harmful interference from unwanted emissions as shown in the most recent version of Recommendation ITU–R RA.769.

(ii) 5.208B In the frequency bands 137–138 MHz, 157.1875–157.3375 MHz, 161.7875–161.9375 MHz, 387–390 MHz, 400.15–401 MHz, 1452–1492 MHz, 1525–1610 MHz, 1613.8–1626.5 MHz, 2655–2690 MHz, 21.4–22 GHz, Resolution 739 (Rev.WRC–19) applies.

(209) * * *

(i) 5.209A The use of the frequency band 137.175–137.825 MHz by non-geostationary-satellite systems in the space operation service identified as short-duration mission in accordance with Appendix 4 is not subject to No. 9.11A.

(ii) [Reserved]

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(211) 5.211 *Additional allocation:* in Germany, Saudi Arabia, Austria, Bahrain, Belgium, Denmark, the United Arab Emirates, Spain, Finland, Greece, Guinea, Ireland, Israel, Kenya, Kuwait, Lebanon, Liechtenstein, Luxembourg, North Macedonia, Mali, Malta, Montenegro, Norway, the Netherlands, Qatar, Slovakia, the United Kingdom, Serbia, Slovenia, Somalia, Sweden, Switzerland, Tanzania, Tunisia and Turkey, the frequency band 138–144 MHz is also allocated to the maritime mobile and land mobile services on a primary basis.

(212) 5.212 *Alternative allocation:* in Angola, Botswana, Cameroon, the Central African Rep., Congo (Rep. of the), Eswatini, Gabon, Gambia, Ghana, Guinea, Iraq, Jordan, Lesotho, Liberia, Libya, Malawi, Mozambique, Namibia, Niger, Oman, Uganda, Syrian Arab Republic, the Dem. Rep. of the Congo, Rwanda, Sierra Leone, South Africa, Chad, Togo, Zambia and Zimbabwe, the frequency band 138–144 MHz is allocated to the fixed and mobile services on a primary basis.

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(214) 5.214 *Additional allocation:* in Eritrea, Ethiopia, Kenya, North Macedonia, Montenegro, Serbia, Somalia, Sudan, South Sudan and Tanzania, the frequency band 138–144 MHz is also allocated to the fixed service on a primary basis.

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(218) * * *

(i) 5.218A The frequency band 148–149.9 MHz in the space operation service (Earth-to-space) may be used by non-geostationary-satellite systems with short-duration missions. Non-geostationary-satellite systems in the space operation service used for a short-duration mission in accordance with Resolution 32 (WRC–19) of the Radio Regulations are not subject to agreement under No. 9.21. At the stage of coordination, the provisions of Nos. 9.17 and 9.18 also apply. In the frequency band 148–149.9 MHz, non-geostationary-satellite systems with short-duration missions shall not cause unacceptable interference to, or claim protection from, existing primary services within this frequency band, or impose additional constraints on the space operation and mobile-satellite services. In addition, earth stations in non-geostationary-satellite systems in the space operation service with short-duration missions in the frequency band 148–149.9 MHz shall ensure that the power flux-density does not exceed -149 dB(W/($m^2 \cdot 4$ kHz)) for more than 1% of time at the border of the territory of the following countries: Armenia, Azerbaijan, Belarus, China, Korea (Rep. of), Cuba, Russian Federation, India, Iran (Islamic Republic of), Japan, Kazakhstan, Malaysia, Uzbekistan, Kyrgyzstan, Thailand and Viet Nam. In case this power flux-density limit is exceeded, agreement under No. 9.21 is required to be obtained from countries mentioned in this footnote.

(ii) [Reserved]

(219) 5.219 The use of the frequency band 148–149.9 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The mobile-satellite service shall not constrain the development and use of the fixed, mobile and space operation services in the frequency band 148–149.9 MHz. The use of the frequency band 148–149.9 MHz by non-geostationary-satellite systems in the space operation service identified as short-duration mission is not subject to No. 9.11A.

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(221) 5.221 Stations of the mobile-satellite service in the frequency band 148–149.9 MHz shall not cause harmful interference to, or claim protection from, stations of the fixed or mobile services operating in accordance with the Table of Frequency Allocations in the following countries: Albania, Algeria, Germany, Saudi Arabia, Australia, Austria, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, Cameroon, China, Cyprus, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Croatia, Cuba, Denmark, Djibouti, Egypt, the United Arab Emirates, Eritrea, Spain, Estonia, Eswatini, Ethiopia, the Russian Federation, Finland, France, Gabon, Georgia, Ghana, Greece, Guinea, Guinea Bissau, Hungary, India, Iran (Islamic Republic of), Ireland, Iceland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lesotho, Latvia, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, North Macedonia, Malaysia, Mali, Malta, Mauritania, Moldova, Mongolia, Montenegro, Mozambique, Namibia, Norway, New Zealand, Oman, Uganda, Uzbekistan, Pakistan, Panama, Papua New Guinea, Paraguay, the Netherlands, the Philippines, Poland, Portugal, Qatar, the Syrian Arab Republic, Kyrgyzstan, Dem. People's Rep. of Korea, Slovakia, Romania, the United Kingdom, Senegal, Serbia, Sierra Leone, Singapore, Slovenia, Sudan, Sri Lanka, South Africa, Sweden, Switzerland, Tanzania, Chad, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Ukraine, Viet Nam, Yemen, Zambia and Zimbabwe.

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(228) * * *

(i) 5.228AB The use of the frequency bands 157.1875–157.3375 MHz and 161.7875–161.9375 MHz by the maritime mobile-satellite service (Earth-to-space) is limited to non-geostationary-satellite systems operating in accordance with Appendix 18.

(ii) 5.228AC The use of the frequency bands 157.1875–157.3375 MHz and 161.7875–161.9375 MHz by the maritime mobile-satellite service (space-

to-Earth) is limited to non-geostationary-satellite systems operating in accordance with Appendix 18. Such use is subject to agreement obtained under No. 9.21 with respect to the terrestrial services in Azerbaijan, Belarus, China, Korea (Rep. of), Cuba, the Russian Federation, the Syrian Arab Republic, the Dem. People's Rep. of Korea, South Africa and Viet Nam.

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(242) 5.242 *Additional allocation:* in Canada and Mexico, the frequency band 216–220 MHz is also allocated to the land mobile service on a primary basis.

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(252) 5.252 *Alternative allocation:* in Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe, the frequency bands 230–238 MHz and 246–254 MHz are allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

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(260)(i) 5.260A In the frequency band 399.9–400.05 MHz, the maximum e.i.r.p. of any emission of earth stations in the mobile-satellite service shall not exceed 5 dBW in any 4 kHz band and the maximum e.i.r.p. of each earth station in the mobile-satellite service shall not exceed 5 dBW in the whole 399.9–400.05 MHz frequency band. Until 22 November 2022, this limit shall not apply to satellite systems for which complete notification information has been received by the Radiocommunication Bureau by 22 November 2019 and that have been brought into use by that date. After 22 November 2022, these limits shall apply to all systems within the mobile-satellite service operating in this frequency band. In the frequency band 399.99–400.02 MHz, the e.i.r.p. limits as specified in this paragraph (b)(260)(i) shall apply after 22 November 2022 to all systems within the mobile-satellite service. Administrations are requested that their mobile-satellite service satellite links in the 399.99–400.02 MHz frequency band comply with the e.i.r.p. limits as specified in this paragraph (b)(260)(i), after 22 November 2019.

(ii) 5.260B In the frequency band 400.02–400.05 MHz, the provisions of paragraph (b)(169)(i) of this section are not applicable for telecommand uplinks within the mobile-satellite service.

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(264) * * *

(i) 5.264A In the frequency band 401–403 MHz, the maximum e.i.r.p. of any emission of each earth station in the meteorological-satellite service and the Earth exploration-satellite service shall not exceed 22 dBW in any 4 kHz band for geostationary-satellite systems and non-geostationary-satellite systems with an orbit of apogee equal or greater than 35 786 km. The maximum e.i.r.p. of any emission of each earth station in the meteorological-satellite service and the Earth exploration-satellite service shall not exceed 7 dBW in any 4 kHz band for non-geostationary-satellite systems with an orbit of apogee lower than 35 786 km. The maximum e.i.r.p. of each earth station in the meteorological-satellite service and the Earth exploration-satellite service shall not exceed 22 dBW for geostationary-satellite systems and non-geostationary-satellite systems with an orbit of apogee equal or greater than 35 786 km in the whole 401–403 MHz frequency band. The maximum e.i.r.p. of each earth station in the meteorological-satellite service and the Earth exploration-satellite service shall not exceed 7 dBW for non-geostationary-satellite systems with an orbit of apogee lower than 35 786 km in the whole 401–403 MHz frequency band. Until 22 November 2029, these limits shall not apply to satellite systems for which complete notification information has been received by the Radiocommunication Bureau by 22 November 2019 and that have been brought into use by that date. After 22 November 2029, these limits shall apply to all systems within the meteorological-satellite service and the Earth exploration-satellite service operating in this frequency band.

(ii) 5.264B Non-geostationary-satellite systems in the meteorological-satellite service and the Earth exploration-satellite service for which complete notification information has been received by the Radiocommunication Bureau before 28 April 2007 are exempt from provisions of paragraph (b)(264)(i) of this section and may continue to operate in the frequency band 401.898–402.522 MHz on a primary basis without exceeding a maximum e.i.r.p. level of 12 dBW.

(265) 5.265 In the frequency band 403–410 MHz, Resolution 205 (Rev.WRC–19) applies.

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(275) 5.275 *Additional allocation:* in Croatia, Estonia, Finland, Libya, North Macedonia, Montenegro and Serbia, the frequency bands 430–432 MHz and 438–440 MHz are also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

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(277) 5.277 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, Cameroon, Congo (Rep. of the), Djibouti, the Russian Federation, Georgia, Hungary, Israel, Kazakhstan, Mali, Uzbekistan, Poland, the Dem. Rep. of the Congo, Kyrgyzstan, Slovakia, Romania, Rwanda, Tajikistan, Chad, Turkmenistan and Ukraine, the frequency band 430–440 MHz is also allocated to the fixed service on a primary basis.

(278) 5.278 *Different category of service:* in Argentina, Brazil, Colombia, Costa Rica, Cuba, Guyana, Honduras, Panama, Paraguay, Uruguay and Venezuela, the allocation of the frequency band 430–440 MHz to the amateur service is on a primary basis (see No. 5.33).

(279) 5.279 *Additional allocation:* in Mexico, the frequency bands 430–435 MHz and 438–440 MHz are also allocated on a primary basis to the mobile, except aeronautical mobile, service, and on a secondary basis to the fixed service, subject to agreement obtained under No. 9.21.

(i) 5.279A The use of the frequency band 432–438 MHz by sensors in the Earth exploration-satellite service (active) shall be in accordance with Recommendation ITU–R RS.1260–2. Additionally, the Earth exploration-satellite service (active) in the frequency band 432–438 MHz shall not cause harmful interference to the aeronautical radionavigation service in China. The provisions of this footnote in no way diminish the obligation of the Earth exploration-satellite service (active) to operate as a secondary service in accordance with Nos. 5.29 and 5.30.

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(280) 5.280 In Germany, Austria, Bosnia and Herzegovina, Croatia, Liechtenstein, North Macedonia, Montenegro, Portugal, Serbia, Slovenia and Switzerland, the frequency band 433.05–434.79 MHz (centre frequency 433.92 MHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication services of these countries operating within this frequency band must accept harmful interference which may be caused by these applications. ISM equipment operating in this frequency band is subject to the provisions of No. 15.13.

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(286) * * *

(ii) 5.286AA The frequency band 450–470 MHz is identified for use by administrations wishing to implement International Mobile Telecommunications (IMT)—see Resolution 224 (Rev.WRC–19). This identification does not preclude the use of this frequency band by any application of the services to which it is

allocated and does not establish priority in the Radio Regulations.

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(287) 5.287 Use of the frequency bands 457.5125–457.5875 MHz and 467.5125–467.5875 MHz by the maritime mobile service is limited to on-board communication stations. The characteristics of the equipment and the channelling arrangement shall be in accordance with Recommendation ITU–R M.1174–4. The use of these frequency bands in territorial waters is subject to the national regulations of the administration concerned.

(288) 5.288 In the territorial waters of the United States and the Philippines, the preferred frequencies for use by on-board communication stations shall be 457.525 MHz, 457.550 MHz, 457.575 MHz and 457.600 MHz paired, respectively, with 467.750 MHz, 467.775 MHz, 467.800 MHz and 467.825 MHz. The characteristics of the equipment used shall conform to those specified in Recommendation ITU–R M.1174–4.

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(295) 5.295 In the Bahamas, Barbados, Canada, the United States and Mexico, the frequency band 470–608 MHz, or portions thereof, is identified for International Mobile Telecommunications (IMT)—see Resolution 224 (Rev.WRC–19). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. Mobile service stations of the IMT system within the frequency band are subject to agreement obtained under No. 9.21 and shall not cause harmful interference to, or claim protection from, the broadcasting service of neighbouring countries. Nos. 5.43 and 5.43A apply.

(296) 5.296 *Additional allocation:* in Albania, Germany, Angola, Saudi Arabia, Austria, Bahrain, Belgium, Benin, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Burundi, Cameroon, Vatican, Congo (Rep. of the), Côte d'Ivoire, Croatia, Denmark, Djibouti, Egypt, United Arab Emirates, Spain, Estonia, Eswatini, Finland, France, Gabon, Georgia, Ghana, Hungary, Iraq, Ireland, Iceland, Israel, Italy, Jordan, Kenya, Kuwait, Lesotho, Latvia, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, North Macedonia, Malawi, Mali, Malta, Morocco, Mauritius, Mauritania, Moldova, Monaco, Mozambique, Namibia, Niger, Nigeria, Norway, Oman, Uganda, the Netherlands, Poland, Portugal, Qatar, the Syrian Arab Republic, Slovakia, the Czech Republic, Romania, the United Kingdom, Rwanda, San Marino, Serbia, Sudan, South Africa, Sweden, Switzerland, Tanzania, Chad, Togo, Tunisia, Turkey, Ukraine, Zambia and Zimbabwe, the frequency band 470–694 MHz is also allocated on a secondary basis to the land mobile service, intended for applications ancillary to broadcasting and programme-making. Stations of the land mobile service in the countries listed in this footnote shall not cause harmful interference to existing or planned stations operating in accordance with the Table in countries other than those listed in this footnote.

(i) 5.296A In Micronesia, the Solomon Islands, Tuvalu and Vanuatu, the frequency band 470–698 MHz, or portions thereof, and in Bangladesh, Maldives and New Zealand, the frequency band 610–698 MHz, or portions thereof, are identified for use by these administrations wishing to implement International Mobile Telecommunications (IMT)—see Resolution 224 (Rev.WRC–19). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. The mobile allocation in this frequency band shall not be used for IMT systems unless subject to agreement obtained under No. 9.21 and shall not cause harmful interference to, or claim protection from, the broadcasting service of neighbouring countries. Nos. 5.43 and 5.43A apply.

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(297) 5.297 *Additional allocation:* in Canada, Costa Rica, Cuba, El Salvador, the United States, Guatemala, Guyana and Jamaica, the frequency band 512–608 MHz is also allocated to the fixed and mobile services on a primary basis, subject to agreement obtained under No. 9.21. In the Bahamas, Barbados and Mexico, the frequency band 512–608 MHz is also allocated to the mobile service on a primary basis, subject to agreement obtained under No. 9.21. In Mexico, the frequency band 512–608 MHz is also allocated on a secondary basis to the fixed service (see No. 5.32).

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(308) 5.308 *Additional allocation:* in Belize, Colombia and Guatemala, the frequency band 614–698 MHz is also allocated to the mobile service on a primary basis. Stations of the mobile service within the frequency band are subject to agreement obtained under No. 9.21.

(i) 5.308A In the Bahamas, Barbados, Belize, Canada, Colombia, the United States, Guatemala and Mexico, the frequency band 614–698 MHz, or portions thereof, is identified for International Mobile Telecommunications (IMT)—see Resolution 224 (Rev.WRC–19). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. Mobile service stations of the IMT system within the frequency band are subject to agreement obtained under No. 9.21 and shall not cause harmful interference to, or claim protection from, the broadcasting service of neighbouring countries. Nos. 5.43 and 5.43A apply.

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(312) 5.312 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the frequency band 645–862 MHz, and in Bulgaria the frequency bands 646–686 MHz, 726–753 MHz, 778–811 MHz and 822–852 MHz, are also allocated to the aeronautical radionavigation service on a primary basis.

(i) 5.312A In Region 1, the use of the frequency band 694–790 MHz by the mobile, except aeronautical mobile, service is subject to the provisions of Resolution 760 (Rev.WRC–19). See also Resolution 224 (Rev.WRC–19).

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(313) 5.313A The frequency band, or portions of the frequency band 698–790 MHz, in Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Korea (Rep. of), Fiji, India, Indonesia, Japan, Kiribati, Lao P.D.R., Malaysia, Myanmar (Union of), New Zealand, Pakistan, Papua New Guinea, the Philippines, the Dem. People's Rep. of Korea, Solomon Islands, Samoa, Singapore, Thailand, Tonga, Tuvalu, Vanuatu and Viet Nam, are identified for use by these administrations wishing to implement International Mobile Telecommunications (IMT). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations.

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(316) 5.316B In Region 1, the allocation to the mobile, except aeronautical mobile, service in the frequency band 790–862 MHz is subject to agreement obtained under No. 9.21 with respect to the aeronautical radionavigation service in countries mentioned in No. 5.312. For countries party to the GE06 Agreement, the use of

stations of the mobile service is also subject to the successful application of the procedures of that Agreement. Resolutions 224 (Rev.WRC–19) and 749 (Rev.WRC–19) shall apply, as appropriate.

(317) * * *

(i) 5.317A The parts of the frequency band 698–960 MHz in Region 2 and the frequency bands 694–790 MHz in Region 1 and 790–960 MHz in Regions 1 and 3 which are allocated to the mobile service on a primary basis are identified for use by administrations wishing to implement International Mobile Telecommunications (IMT)—see Resolutions 224 (Rev.WRC–19), 760 (Rev.WRC–19) and 749 (Rev.WRC–19), where applicable. This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations.

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(323) 5.323 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the frequency band 862–960 MHz, in Bulgaria the frequency bands 862–880 MHz and 915–925 MHz, and in Romania the frequency bands 862–880 MHz and 915–925 MHz, are also allocated to the aeronautical radionavigation service on a primary basis. Such use is subject to agreement obtained under No. 9.21 with administrations concerned and limited to ground-based radiobeacons in operation on 27 October 1997 until the end of their lifetime.

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(325) * * *

(i) 5.325A *Different category of service:* in Argentina, Brazil, Costa Rica, Cuba, Dominican Republic, El Salvador, Ecuador, the French overseas departments and communities in Region 2, Guatemala, Paraguay, Uruguay and Venezuela, the frequency band 902–928 MHz is allocated to the land mobile service on a primary basis. In Mexico, the frequency band 902–928 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis. In Colombia, the frequency band 902–905 MHz is allocated to the land mobile service on a primary basis.

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(ii) 5.328AA The frequency band 1087.7–1092.3 MHz is also allocated to the aeronautical mobile-satellite (R) service (Earth-to-space) on a primary basis, limited to the space station reception of Automatic Dependent Surveillance-Broadcast (ADS–B) emissions from aircraft transmitters that operate in accordance with recognized international aeronautical standards. Stations operating in the aeronautical mobile-satellite (R) service shall not claim protection from stations operating in the aeronautical radionavigation service. Resolution 425 (Rev.WRC–19) shall apply.

(iii) 5.328B The use of the bands 1164–1300 MHz, 1559–1610 MHz and 5010–5030 MHz by systems and networks in the radionavigation-satellite service for which complete coordination or notification information, as appropriate, is received by the Radiocommunication Bureau after 1 January 2005 is subject to the application of the provisions of Nos. 9.12, 9.12A and 9.13. Resolution 610 (Rev.WRC–19) shall also apply; however, in the case of radionavigation-satellite service (space-to-space) networks and systems, Resolution 610 (Rev.WRC–19) shall only apply to transmitting space stations. In accordance with No. 5.329A, for systems and networks in the radionavigation-satellite service (space-to-space) in the bands 1215–1300 MHz and 1559–1610 MHz, the provisions of Nos. 9.7, 9.12, 9.12A and 9.13 shall only apply with respect to other systems and networks in the radionavigation-satellite service (space-to-space).

(329) 5.329 Use of the radionavigation-satellite service in the frequency band 1215–1300 MHz shall be subject to the condition that no harmful interference is caused to, and no protection is claimed from, the radionavigation service authorized under paragraph (b)(331) of this section. Furthermore, the use of the radionavigation-satellite service in the frequency band 1215–1300 MHz shall be subject to the condition that no harmful interference is caused to the radiolocation service. No. 5.43 shall not apply in respect of the radiolocation service. Resolution 608 (Rev.WRC–19) shall apply.

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(331) 5.331 *Additional allocation:* in Algeria, Germany, Saudi Arabia, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brazil, Burkina Faso, Burundi, Cameroon, China, Korea (Rep. of), Croatia, Denmark, Egypt, the United Arab Emirates, Estonia, the Russian Federation, Finland, France, Ghana, Greece, Guinea, Equatorial Guinea, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Jordan, Kenya, Kuwait, Lesotho, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, North Macedonia, Madagascar, Mali, Mauritania, Montenegro, Nigeria, Norway, Oman, Pakistan, the Kingdom of the Netherlands, Poland, Portugal, Qatar, the Syrian Arab Republic, Dem. People's Rep. of Korea, Slovakia, the United Kingdom, Serbia, Slovenia, Somalia, Sudan, South Sudan, Sri Lanka, South Africa, Sweden, Switzerland, Thailand, Togo, Turkey, Venezuela and Viet Nam, the frequency band 1215–1300 MHz is also allocated to the radionavigation service on a primary basis. In Canada and the United States, the frequency band 1240–1300 MHz is also allocated to the radionavigation service, and use of the radionavigation service shall be limited to the aeronautical radionavigation service.

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(338) * * *

(i) 5.338A In the frequency bands 1350–1400 MHz, 1427–1452 MHz, 22.55–23.55 GHz, 24.25–27.5 GHz, 30–31.3 GHz, 49.7–50.2 GHz, 50.4–50.9 GHz, 51.4–52.4 GHz, 52.4–52.6 GHz, 81–86 GHz and 92–94 GHz, Resolution 750 (Rev.WRC–19) applies.

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(341) * * *

(i) 5.341A In Region 1, the frequency bands 1427–1452 MHz and 1492–1518 MHz are identified for use by administrations wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–19). This identification does not preclude the use of these frequency bands by any other application of the services to which it is allocated and does not establish priority in the Radio Regulations. The use of IMT stations is subject to agreement obtained under No. 9.21 with respect to the aeronautical mobile service used for aeronautical telemetry in accordance with paragraph (b)(342) of this section.

(ii) 5.341B In Region 2, the frequency band 1427–1518 MHz is identified for use by administrations wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–19). This identification does not preclude the use of this frequency band by any application of the services to which they are allocated and does not establish priority in the Radio Regulations.

(iii) 5.341C The frequency bands 1427–1452 MHz and 1492–1518 MHz are identified for use by administrations in Region 3 wishing to implement International Mobile Telecommunications (IMT) in

accordance with Resolution 223 (Rev.WRC–19). The use of these frequency bands by the referenced administrations for the implementation of IMT in the frequency bands 1429–1452 MHz and 1492–1518 MHz is subject to agreement obtained under No. 9.21 from countries using stations of the aeronautical mobile service. This identification does not preclude the use of these frequency bands by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

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(345) 5.345 Use of the frequency band 1452–1492 MHz by the broadcasting-satellite service, and by the broadcasting service, is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev.WRC–19).

(346) 5.346 In Algeria, Angola, Saudi Arabia, Bahrain, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Congo (Rep. of the), Côte d'Ivoire, Djibouti, Egypt, United Arab Emirates, Eswatini, Gabon, Gambia, Ghana, Guinea, Iraq, Jordan, Kenya, Kuwait, Lesotho, Lebanon, Liberia, Madagascar, Malawi, Mali, Morocco, Mauritius, Mauritania, Mozambique, Namibia, Niger, Nigeria, Oman, Uganda, Palestine, Qatar, Dem. Rep. of the Congo, Rwanda, Senegal, Seychelles, Sudan, South Sudan, South Africa, Tanzania, Chad, Togo, Tunisia, Zambia, and Zimbabwe, the frequency band 1452–1492 MHz is identified for use by administrations listed in this paragraph (b)(346) wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–19). This identification does not preclude the use of this frequency band by any other application of the services to which it is allocated and does not establish priority in the Radio Regulations. The use of this frequency band for the implementation of IMT is subject to agreement obtained under No. 9.21 with respect to the aeronautical mobile service used for aeronautical telemetry in accordance with paragraph (b)(342) of this section. See also Resolution 761 (Rev.WRC–19).

Note 3 to § 2.16(b)(346) introductory text: The use by Palestine of the allocation to the mobile service in the frequency band 1452–1492 MHz identified for IMT is noted, pursuant to Resolution 99 (Rev. Dubai, 2018) and taking into account the Israeli-Palestinian Interim Agreement of 28 September 1995.

(i) 5.346A The frequency band 1452–1492 MHz is identified for use by administrations in Region 3 wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–19) and Resolution 761 (Rev.WRC–19). The use of this frequency band by the above administrations for the implementation of IMT is subject to agreement obtained under No. 9.21 from countries using stations of the aeronautical mobile service. This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

(ii) [Reserved]

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(349) 5.349 *Different category of service:* in Saudi Arabia, Azerbaijan, Bahrain, Cameroon, Egypt, Iran (Islamic Republic of), Iraq, Israel, Kazakhstan, Kuwait, Lebanon, North Macedonia, Morocco, Qatar, Syrian Arab Republic, Kyrgyzstan, Turkmenistan and Yemen, the allocation of the frequency band 1525–1530 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.33).

(350) 5.350 *Additional allocation:* in Kyrgyzstan and Turkmenistan, the frequency band 1525–1530 MHz is also allocated to the aeronautical mobile service on a primary basis.

(351) * * *

(i) 5.351A For the use of the bands 1518–1544 MHz, 1545–1559 MHz, 1610–1645.5 MHz, 1646.5–1660.5 MHz, 1668–1675 MHz, 1980–2010 MHz, 2170–2200 MHz, 2483.5–2520 MHz and 2670–2690 MHz by the mobile-satellite service, see Resolutions 212 (Rev.WRC–19) and 225 (Rev.WRC–12).

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(352) 5.352A In the frequency band 1525–1530 MHz, stations in the mobile-satellite service, except stations in the maritime mobile-satellite service, shall not cause harmful interference to, or claim protection from, stations of the fixed service in Algeria, Saudi Arabia, Egypt, Guinea, India, Israel, Italy, Jordan, Kuwait, Mali, Morocco, Mauritania, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syrian Arab Republic, Viet Nam and Yemen notified prior to 1 April 1998.

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(359) 5.359 *Additional allocation:* in Germany, Saudi Arabia, Armenia, Azerbaijan, Belarus, Cameroon, the Russian Federation, Georgia, Guinea, Guinea-Bissau, Jordan, Kazakhstan, Kuwait, Lithuania, Mauritania, Uganda, Uzbekistan, Pakistan, Poland, the Syrian Arab Republic, Kyrgyzstan, the Dem. People's Rep. of Korea, Romania, Tajikistan, Tunisia, Turkmenistan and Ukraine, the frequency bands 1550–1559 MHz, 1610–1645.5 MHz and 1646.5–1660 MHz are also allocated to the fixed service on a primary basis. Administrations are urged to make all practicable efforts to avoid the implementation of new fixed-service stations in these frequency bands.

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(368) 5.368 The provisions of No. 4.10 do not apply with respect to the radiodetermination-satellite and mobile-satellite services in the frequency band 1610–1626.5 MHz. However, No. 4.10 applies in the frequency band 1610–1626.5 MHz with respect to the aeronautical radionavigation-satellite service when operating in accordance with paragraph (b)(366) of this section, the aeronautical mobile satellite (R) service when operating in accordance with paragraph (b)(367) of this section, and in the frequency band 1621.35–1626.5 MHz with respect to the maritime mobile-satellite service when used for GMDSS.

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(372) 5.372 Harmful interference shall not be caused to stations of the radio astronomy service using the frequency band 1610.6–1613.8 MHz by stations of the radiodetermination-satellite and mobile-satellite services (No. 29.13 applies). The equivalent power flux-density (epfd) produced in the frequency band 1610.6–1613.8 MHz by all space stations of a non-geostationary-satellite system in the mobile-satellite service (space-to-Earth) operating in frequency band 1613.8–1626.5 MHz shall be in compliance with the protection criteria provided in Recommendations ITU–R RA.769–2 and ITU–R RA.1513–2, using the methodology given in Recommendation ITU–R M.1583–1, and the radio astronomy antenna pattern described in Recommendation ITU–R RA.1631–0.

(373) 5.373 Maritime mobile earth stations receiving in the frequency band 1621.35–1626.5 MHz shall not impose additional constraints on earth stations operating in the maritime mobile-satellite service or maritime earth stations of the radiodetermination-satellite service operating in accordance with the Radio Regulations in the frequency band 1610–1621.35 MHz or on earth stations operating in the maritime mobile-satellite service operating in accordance with the Radio Regulations in the frequency band 1626.5–1660.5 MHz, unless otherwise agreed between the notifying administrations.

(i) 5.373A Maritime mobile earth stations receiving in the frequency band

1621.35–1626.5 MHz shall not impose constraints on the assignments of earth stations of the mobile-satellite service (Earth-to-space) and the radiodetermination-satellite service (Earth-to-space) in the frequency band 1621.35–1626.5 MHz in networks for which complete coordination information has been received by the Radiocommunication Bureau before 28 October 2019.

(ii) [Reserved]

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(382) 5.382 *Different category of service:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Congo (Rep. of the), Egypt, the United Arab Emirates, Eritrea, Ethiopia, the Russian Federation, Guinea, Iraq, Israel, Jordan, Kazakhstan, Kuwait, Lebanon, North Macedonia, Mauritania, Moldova, Mongolia, Oman, Uzbekistan, Poland, Qatar, the Syrian Arab Republic, Kyrgyzstan, Somalia, Tajikistan, Turkmenistan, Ukraine and Yemen, the allocation of the frequency band 1690–1700 MHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 5.33), and in the Dem. People's Rep. of Korea, the allocation of the frequency band 1690–1700 MHz to the fixed service is on a primary basis (see No. 5.33) and to the mobile, except aeronautical mobile, service on a secondary basis.

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(384) * * *

(i) 5.384A The frequency bands 1710–1885 MHz, 2300–2400 MHz and 2500–2690 MHz, or portions thereof, are identified for use by administrations wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–19). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations.

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(388) 5.388 The frequency bands 1885–2025 MHz and 2110–2200 MHz are intended for use, on a worldwide basis, by administrations wishing to implement International Mobile Telecommunications (IMT). Such use does not preclude the use of these frequency bands by other services to which they are allocated. The frequency bands should be made available for IMT in accordance with Resolution 212 (Rev.WRC–19) (see also Resolution 223 (Rev.WRC–19)).

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(ii) 5.388B In Algeria, Saudi Arabia, Bahrain, Benin, Burkina Faso, Cameroon, Comoros, Côte d'Ivoire, China, Cuba, Djibouti, Egypt, United Arab Emirates, Eritrea, Ethiopia, Gabon, Ghana, India, Iran (Islamic Republic of), Israel, Jordan, Kenya, Kuwait, Lebanon, Libya, Mali, Morocco, Mauritania, Nigeria, Oman, Uganda, Pakistan, Qatar, the Syrian Arab Republic, Senegal, Singapore, Sudan, South Sudan, Tanzania, Chad, Togo, Tunisia, Yemen, Zambia and Zimbabwe, for the purpose of protecting fixed and mobile services, including IMT mobile stations, in their territories from co-channel interference, a high altitude platform station (HAPS) operating as an IMT base station in neighbouring countries, in the frequency bands referred to in paragraph (b)(388)(i) of this section, shall not exceed a co-channel power flux-density of -127 dB(W/(m^2 · MHz)) at the Earth's surface outside a country's borders unless explicit agreement of the affected administration is provided at the time of the notification of HAPS.

(389) * * *

(i) 5.389B The use of the frequency band 1980–1990 MHz by the mobile-satellite service shall not cause harmful interference to or constrain the development of the fixed and mobile services in Argentina, Brazil, Canada, Chile, Ecuador, the United States, Honduras, Jamaica, Mexico, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

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(iv) 5.389F In Algeria, Cape Verde, Egypt, Iran (Islamic Republic of), Mali, Syrian Arab Republic and Tunisia, the use of the frequency bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service shall neither cause harmful interference to the fixed and mobile services, nor hamper the development of those services prior to 1 January 2005, nor shall the former service request protection from the latter services.

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(393) 5.393 *Additional allocation:* in Canada, the United States and India, the frequency band 2310–2360 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial sound broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev.WRC–19), with the exception of *resolves* 3 in regard to the limitation on broadcasting-satellite systems in the upper 25 MHz. Complementary terrestrial sound broadcasting stations shall be subject to bilateral coordination with neighbouring countries prior to their bringing into use.

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(401) 5.401 In Angola, Australia, Bangladesh, China, Eritrea, Eswatini, Ethiopia, India, Lebanon, Liberia, Libya, Madagascar, Mali, Pakistan, Papua New Guinea, Syrian Arab Republic, Dem. Rep. of the Congo, Sudan, Togo and Zambia, the frequency band 2483.5–2500 MHz was already allocated on a primary basis to the radiodetermination-satellite service before WRC–12, subject to agreement obtained under No. 9.21 from countries not listed in this provision. Systems in the radiodetermination-satellite service for which complete coordination information has been received by the Radiocommunication Bureau before 18 February 2012 will retain their regulatory status, as of the date of receipt of the coordination request information.

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(418) 5.418 *Additional allocation:* in India, the frequency band 2535–2655 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev.WRC–19). The provisions of paragraph (b)(416) of this section and Table 21–4 of Article 21 do not apply to this additional allocation. Use of non-geostationary-satellite systems in the broadcasting-satellite service (sound) is subject to Resolution 539 (Rev.WRC–19). Geostationary broadcasting-satellite service (sound) systems for which complete Appendix 4 coordination information has been received after 1 June 2005 are limited to systems intended for national coverage. The power flux-density at the Earth's surface produced by emissions from a geostationary broadcasting-satellite service (sound) space station operating in the frequency band 2630–2655 MHz, and for which complete Appendix 4 coordination information has been received after 1 June 2005, shall not exceed the following limits, for all conditions and for all methods of modulation: -130 dB(W/(m^2 · MHz)) for $0° \le \theta \le 5°$, $-130 + 0.4\ (\theta–5)$ dB(W/(m^2 · MHz)) for $5° < \theta \le 25°$, -122 dB(W/(m^2 · MHz)) for $25° < \theta \le 90°$, where θ is the angle of arrival of the incident wave above the horizontal plane, in degrees. These limits may be exceeded on the territory of any country whose administration has so agreed. As an exception to the limits provided in this paragraph (b)(418), the pfd value of -122 dB(W/(m^2 · MHz)) shall be used as a threshold for coordination under No. 9.11 in an area of 1500 km around

the territory of the administration notifying the broadcasting-satellite service (sound) system. In addition, an administration listed in this provision shall not have simultaneously two overlapping frequency assignments, one under this provision and the other under paragraph (b)(416) of this section for systems for which complete Appendix 4 coordination information has been received after 1 June 2005.

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(428) 5.428 *Additional allocation:* in Kyrgyzstan and Turkmenistan, the frequency band 3100–3300 MHz is also allocated to the radionavigation service on a primary basis.

(429) 5.429 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Benin, Brunei Darussalam, Cambodia, Cameroon, China, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Egypt, the United Arab Emirates, India, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Jordan, Kenya, Kuwait, Lebanon, Libya, Malaysia, New Zealand, Oman, Uganda, Pakistan, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, the Dem. People's Rep. of Korea, Sudan and Yemen, the frequency band 3300–3400 MHz is also allocated to the fixed and mobile services on a primary basis. New Zealand and the countries bordering the Mediterranean shall not claim protection for their fixed and mobile services from the radiolocation service.

(i) 5.429A *Additional allocation:* in Angola, Benin, Botswana, Burkina Faso, Burundi, Djibouti, Eswatini, Ghana, Guinea, Guinea-Bissau, Lesotho, Liberia, Malawi, Mauritania, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sudan, South Sudan, South Africa, Tanzania, Chad, Togo, Zambia and Zimbabwe, the frequency band 3300–3400 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis. Stations in the mobile service operating in the frequency band 3300–3400 MHz shall not cause harmful interference to, or claim protection from, stations operating in the radiolocation service.

(ii) 5.429B In the following countries of Region 1 south of 30° parallel north: Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Congo (Rep. of the), Côte d'Ivoire, Egypt, Eswatini, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Malawi, Mauritania, Mozambique, Namibia, Niger, Nigeria, Uganda, the Dem. Rep. of the Congo, Rwanda, Sudan, South Sudan, South Africa, Tanzania, Chad, Togo, Zambia and Zimbabwe, the frequency band 3300–3400 MHz is identified for the implementation of International Mobile Telecommunications (IMT). The use of this frequency band shall be in accordance with Resolution 223 (Rev.WRC–19). The use of the frequency band 3300–3400 MHz by IMT stations in the mobile service shall not cause harmful interference to, or claim protection from, systems in the radiolocation service, and administrations wishing to implement IMT shall obtain the agreement of neighbouring countries to protect operations within the radiolocation service. This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

(iii) 5.429C *Different category of service:* in Argentina, Belize, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, El Salvador, Ecuador, Guatemala, Mexico, Paraguay and Uruguay, the frequency band 3300–3400 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis. In Argentina, Brazil, the Dominican Republic, Guatemala, Mexico, Paraguay and Uruguay, the frequency band 3300–3400 MHz is also allocated to the fixed service on a primary basis. Stations in the fixed and mobile services operating in the frequency band 3300–3400 MHz shall not cause harmful interference to, or claim protection from, stations operating in the radiolocation service.

(iv) 5.429D In the following countries in Region 2: Argentina, Belize, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, El Salvador, Ecuador, Guatemala, Mexico, Paraguay and Uruguay, the use of the frequency band 3300–3400 MHz is identified for the implementation of International Mobile Telecommunications (IMT). Such use shall be in accordance with Resolution 223 (Rev.WRC–19). This use in Argentina, Paraguay and Uruguay is subject to the application of No. 9.21. The use of the frequency band 3300–3400 MHz by IMT stations in the mobile service shall not cause harmful interference to, or claim protection from, systems in the radiolocation service, and administrations wishing to implement IMT shall obtain the agreement of neighbouring countries to protect operations within the radiolocation service. This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

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(vi) 5.429F In the following countries in Region 3: Cambodia, India, Indonesia, Lao P.D.R., Pakistan, the Philippines and Viet Nam, the use of the frequency band 3300–3400 MHz is identified for the implementation of International Mobile Telecommunications (IMT). Such use shall be in accordance with Resolution 223 (Rev.WRC–19). The use of the frequency band 3300–3400 MHz by IMT stations in the mobile service shall not cause harmful interference to, or claim protection from, systems in the radiolocation service. Before an administration brings into use a base or mobile station of an IMT system in this frequency band, it shall seek agreement under No. 9.21 with neighbouring countries to protect the radiolocation service. This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

(430) 5.430 *Additional allocation:* in Kyrgyzstan and Turkmenistan, the frequency band 3300–3400 MHz is also allocated to the radionavigation service on a primary basis.

(i) 5.430A The allocation of the frequency band 3400–3600 MHz to the mobile, except aeronautical mobile, service is subject to agreement obtained under No. 9.21. This frequency band is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. The provisions of Nos. 9.17 and 9.18 shall also apply in the coordination phase. Before an administration brings into use a (base or mobile) station of the mobile service in this frequency band, it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed -154.5 dB(W/(m^2 · 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station) and with the assistance of the Bureau if so requested. In case of disagreement, calculation and verification of the pfd shall be made by the Bureau, taking into account the

information referred to above. Stations of the mobile service in the frequency band 3400–3600 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004).

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(431) 5.431 *Additional allocation:* in Germany, the frequency band 3400–3475 MHz is also allocated to the amateur service on a secondary basis.

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(432) 5.432 *Different category of service:* in Korea (Rep. of), Japan, Pakistan and the Dem. People's Rep. of Korea, the allocation of the frequency band 3400–3500 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.33).

(i) 5.432A In Korea (Rep. of), Japan, Pakistan and the Dem. People's Rep. of Korea, the frequency band 3400–3500 MHz is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this frequency band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed -154.5 dB(W/(m^2 · 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to in this paragraph (i). Stations of the mobile service in the frequency band 3400–3500 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004).

(ii) 5.432B *Different category of service:* in Australia, Bangladesh, Brunei Darussalam, China, French overseas communities of Region 3, India, Indonesia, Iran (Islamic Republic of), Malaysia, New Zealand, the Philippines, Singapore and Thailand, the frequency band 3400–3500 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis, subject to agreement obtained under No. 9.21 with other administrations and is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this frequency band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed -154.5 dB(W/(m^2 · 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to in this paragraph (ii). Stations of the mobile service in the frequency band 3400–3500 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004).

(433) * * *

(i) 5.433A In Australia, Bangladesh, Brunei Darussalam, China, French overseas communities of Region 3, Korea (Rep. of), India, Indonesia, Iran (Islamic Republic of), Japan, New Zealand, Pakistan, the Philippines and the Dem. People's Rep. of Korea, the frequency band 3500–3600 MHz is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this frequency band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed -154.5 dB (W/(m^2 · 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to in this paragraph (i). Stations of the mobile service in the frequency band 3500–3600 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004).

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(434) 5.434 In Canada, Chile, Colombia, Costa Rica, El Salvador, the United States and Paraguay, the frequency band 3600–3700 MHz, or portions thereof, is identified for use by these administrations wishing to implement International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a base or mobile station of an IMT system, it shall seek agreement under No. 9.21 with other administrations and ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed -154.5 dB(W/(m^2 · 4 kHz)) for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of

disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to in this paragraph (434). Stations of the mobile service, including IMT systems, in the frequency band 3600–3700 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004).

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(441) * * *

(i) 5.441A In Brazil, Paraguay and Uruguay, the frequency band 4800–4900 MHz, or portions thereof, is identified for the implementation of International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. The use of this frequency band for the implementation of IMT is subject to agreement obtained with neighbouring countries, and IMT stations shall not claim protection from stations of other applications of the mobile service. Such use shall be in accordance with Resolution 223 (Rev.WRC–19).

(ii) 5.441B In Angola, Armenia, Azerbaijan, Benin, Botswana, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, China, Côte d'Ivoire, Djibouti, Eswatini, Russian Federation, Gambia, Guinea, Iran (Islamic Republic of), Kazakhstan, Kenya, Lao P.D.R., Lesotho, Liberia, Malawi, Mauritius, Mongolia, Mozambique, Nigeria, Uganda, Uzbekistan, the Dem. Rep. of the Congo, Kyrgyzstan, the Dem. People's Rep. of Korea, Sudan, South Africa, Tanzania, Togo, Viet Nam, Zambia and Zimbabwe, the frequency band 4800–4990 MHz, or portions thereof, is identified for use by administrations wishing to implement International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. The use of IMT stations is subject to agreement obtained under No. 9.21 with concerned administrations, and IMT stations shall not claim protection from stations of other applications of the mobile service. In addition, before an administration brings into use an IMT station in the mobile service, it shall ensure that the power flux-density (pfd) produced by this station does not exceed -155 dB(W/(m^2 · 1 MHz)) produced up to 19 km above sea level at 20 km from the coast, defined as the low-water mark, as officially recognized by the coastal State. This pfd criterion is subject to review at WRC–23. Resolution 223 (Rev.WRC–19) applies. This identification shall be effective after WRC–19.

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(ii) 5.444B The use of the frequency band 5091–5150 MHz by the aeronautical mobile service is limited to: systems operating in the aeronautical mobile (R) service and in accordance with international aeronautical standards, limited to surface applications at airports. Such use shall be in accordance with Resolution 748 (Rev.WRC–19); aeronautical telemetry transmissions from aircraft stations (see No. 1.83) in accordance with Resolution 418 (Rev.WRC–19).

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(i) 5.446A The use of the frequency bands 5150–5350 MHz and 5470–5725 MHz by the stations in the mobile, except aeronautical mobile, service shall be in accordance with Resolution 229 (Rev.WRC–19).

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(iii) 5.446C *Additional allocation:* in Region 1 (except in Algeria, Saudi Arabia, Bahrain, Egypt, United Arab Emirates, Iraq, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Syrian Arab Republic, Sudan, South Sudan and Tunisia), the frequency band 5150–5250 MHz is also allocated to the aeronautical mobile service on a primary basis, limited to aeronautical telemetry transmissions from aircraft stations (see No. 1.83), in accordance with Resolution 418 (Rev.WRC–19). These stations shall not claim protection from other stations operating in accordance with Article 5. No. 5.43A does not apply.

(iv) 5.446D *Additional allocation:* in Brazil, the band 5150–5250 MHz is also allocated to the aeronautical mobile service on a primary basis, limited to aeronautical telemetry transmissions from aircraft stations (see No. 1.83), in accordance with Resolution 418 (Rev.WRC–19).

(447) 5.447 *Additional allocation:* in Côte d'Ivoire, Egypt, Lebanon, the Syrian Arab Republic and Tunisia, the frequency band 5150–5250 MHz is also allocated to the mobile service, on a primary basis, subject to agreement obtained under No. 9.21. In this case, the provisions of Resolution 229 (Rev.WRC–19) do not apply.

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(vi) 5.447F In the frequency band 5250–5350 MHz, stations in the mobile service shall not claim protection from the radiolocation service, the Earth exploration-satellite service (active) and the space research service (active). The radiolocation service, the Earth exploration-satellite service (active) and the space research service (active) shall not impose more stringent conditions upon the mobile service than those stipulated in Resolution 229 (Rev.WRC–19).

(448) 5.448 *Additional allocation:* in Kyrgyzstan, Romania and Turkmenistan, the frequency band 5250–5350 MHz is also allocated to the radionavigation service on a primary basis.

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(450) * * *

(i) 5.450A In the frequency band 5470–5725 MHz, stations in the mobile service shall not claim protection from radiodetermination services. The radiodetermination services shall not impose more stringent conditions upon the mobile service than those stipulated in Resolution 229 (Rev.WRC–19).

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(453) 5.453 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Djibouti, Egypt, the United Arab Emirates, Eswatini, Gabon, Guinea, Equatorial Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Jordan, Kenya, Kuwait, Lebanon, Libya, Madagascar, Malaysia, Niger, Nigeria, Oman, Uganda, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Sri Lanka, Tanzania, Chad, Thailand, Togo, Viet Nam and Yemen, the frequency band 5650–5850 MHz is also allocated to the fixed and mobile services on a primary basis. In this case, the provisions of Resolution 229 (Rev.WRC–19) do not apply. In addition, in Afghanistan, Angola, Benin, Bhutan, Botswana, Burkina Faso, Burundi, Dem. Rep. of the Congo, Fiji, Ghana, Kiribati, Lesotho, Malawi, Maldives, Mauritius, Micronesia, Mongolia, Mozambique, Myanmar, Namibia, Nauru, New Zealand, Papua New Guinea, Rwanda, Solomon Islands, South Sudan, South Africa, Tonga, Vanuatu, Zambia and Zimbabwe, the frequency band 5725–5850 MHz is allocated to the fixed service on a primary basis, and stations operating in the fixed service shall not cause harmful interference to and shall not claim protection from other primary services in the frequency band.

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(455) 5.455 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Cuba, the Russian Federation, Georgia, Hungary, Kazakhstan, Moldova, Uzbekistan,

Kyrgyzstan, Romania, Tajikistan, Turkmenistan and Ukraine, the frequency band 5670–5850 MHz is also allocated to the fixed service on a primary basis.

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(458) 5.458 In the band 6425–7075 MHz, passive microwave sensor measurements are carried out over the oceans. In the band 7075–7250 MHz, passive microwave sensor measurements are carried out. Administrations should bear in mind the needs of the Earth exploration-satellite (passive) and space research (passive) services in their future planning of the bands 6425–7075 MHz and 7075–7250 MHz.

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(468) 5.468 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Burundi, Cameroon, China, Congo (Rep. of the), Djibouti, Egypt, the United Arab Emirates, Eswatini, Gabon, Guyana, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lebanon, Libya, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Uganda, Pakistan, Qatar, Syrian Arab Republic, the Dem. People's Rep. of Korea, Senegal, Singapore, Somalia, Sudan, Chad, Togo, Tunisia and Yemen, the frequency band 8500–8750 MHz is also allocated to the fixed and mobile services on a primary basis.

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(473) 5.473 *Additional allocation:* in Armenia, Austria, Azerbaijan, Belarus, Cuba, the Russian Federation, Georgia, Hungary, Uzbekistan, Poland, Kyrgyzstan, Romania, Tajikistan, Turkmenistan and Ukraine, the frequency bands 8850–9000 MHz and 9200–9300 MHz are also allocated to the radionavigation service on a primary basis.

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(474) * * *

(iv) 5.474D Stations in the Earth exploration-satellite service (active) shall not cause harmful interference to, or claim protection from, stations of the maritime radionavigation and radiolocation services in the frequency band 9200–9300 MHz, the radionavigation and radiolocation services in the frequency band 9900–10 000 MHz and the radiolocation service in the frequency band 10.0–10.4 GHz.

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(477) 5.477 *Different category of service:* in Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, Djibouti, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lebanon, Liberia, Malaysia, Nigeria, Oman, Uganda, Pakistan, Qatar, Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, South Sudan, Trinidad and Tobago, and Yemen, the allocation of the frequency band 9800–10 000 MHz to the fixed service is on a primary basis (see No. 5.33).

(478) 5.478 *Additional allocation:* in Azerbaijan, Kyrgyzstan, Romania, Turkmenistan and Ukraine, the frequency band 9800–10 000 MHz is also allocated to the radionavigation service on a primary basis.

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(479) 5.479 The band 9975–10 025 MHz is also allocated to the meteorological-satellite service on a secondary basis for use by weather radars.

(480) 5.480 *Additional allocation:* in Argentina, Brazil, Chile, Cuba, El Salvador, Ecuador, Guatemala, Honduras, Paraguay, the overseas countries and territories within the Kingdom of the Netherlands in Region 2, Peru and Uruguay, the frequency band 10–10.45 GHz is also allocated to the fixed and mobile services on a primary basis. In Colombia, Costa Rica, Mexico and Venezuela, the frequency band 10–10.45 GHz is also allocated to the fixed service on a primary basis.

(481) 5.481 *Additional allocation:* in Algeria, Germany, Angola, Brazil, China, Côte d'Ivoire, Egypt, El Salvador, Ecuador, Spain, Guatemala, Hungary, Japan, Kenya, Morocco, Nigeria, Oman, Uzbekistan, Pakistan, Paraguay, Peru, the Dem. People's Rep. of Korea, Romania, Tunisia and Uruguay, the frequency band 10.45–10.5 GHz is also allocated to the fixed and mobile services on a primary basis. In Costa Rica, the frequency band 10.45–10.5 GHz is also allocated to the fixed service on a primary basis.

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(483) 5.483 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, China, Colombia, Korea (Rep. of), Egypt, the United Arab Emirates, Georgia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakhstan, Kuwait, Lebanon, Mongolia, Qatar, Kyrgyzstan, the Dem. People's Rep. of Korea, Tajikistan, Turkmenistan and Yemen, the frequency band 10.68–10.7 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. Such use is limited to equipment in operation by 1 January 1985.

(484) * * *

(ii) 5.484B Resolution 155 (Rev.WRC–19) shall apply.

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(495) 5.495 *Additional allocation:* in Greece, Monaco, Montenegro, Uganda and Tunisia, the frequency band 12.5–12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis.

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(505) 5.505 *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Botswana, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Korea (Rep. of), Djibouti, Egypt, the United Arab Emirates, Eswatini, Gabon, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Oman, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, South Sudan, Chad, Viet Nam and Yemen, the frequency band 14–14.3 GHz is also allocated to the fixed service on a primary basis.

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(508) 5.508 *Additional allocation:* in Germany, France, Italy, Libya, North Macedonia and the United Kingdom, the frequency band 14.25–14.3 GHz is also allocated to the fixed service on a primary basis.

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(509) * * *

(iii) 5.509D Before an administration brings into use an earth station in the fixed-satellite service (Earth-to-space) not for feeder links for the broadcasting-satellite service in the frequency bands 14.5–14.75 GHz (in countries listed in Resolution 163 (WRC–15)) and 14.5–14.8 GHz (in countries listed in Resolution 164 (WRC–15)), it shall ensure that the power flux-density produced by this earth station does not exceed -151.5 dB(W/(m^2 · 4 kHz)) produced at all altitudes from 0 m to 19 000 m above sea level at 22 km seaward from all coasts, defined as the low-water mark, as officially recognized by each coastal State.

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(516) * * *

(ii) 5.516B The following bands are identified for use by high-density applications in the fixed-satellite service: 17.3–17.7 GHz (space-to-Earth) in Region 1, 18.3–19.3 GHz (space-to-Earth) in Region 2, 19.7–20.2 GHz (space-to-Earth) in all Regions, 39.5–40 GHz (space-to-Earth) in Region 1, 40–40.5 GHz (space-to-Earth) in all Regions,40.5–42 GHz (space-to-Earth) in Region 2, 47.5–47.9 GHz (space-to-Earth) in Region 1, 48.2–48.54 GHz (space-to-Earth) in Region 1, 49.44–50.2

GHz (space-to-Earth) in Region 1, and 27.5–27.82 GHz (Earth-to-space) in Region 1, 28.35–28.45 GHz (Earth-to-space) in Region 2, 28.45–28.94 GHz (Earth-to-space) in all Regions, 28.94–29.1 GHz (Earth-to-space) in Regions 2 and 3,

29.25–29.46 GHz (Earth-to-space) in Region 2, 29.46–30 GHz (Earth-to-space) in all Regions, 48.2–50.2 GHz (Earth-to-space) in Region 2. This identification does not preclude the use of these frequency bands by other fixed-satellite service applications or by other services to which these frequency bands are allocated on a co-primary basis and does not establish priority in these Radio Regulations among users of the frequency bands. Administrations should take this into account when considering regulatory provisions in relation to these frequency bands. See Resolution 143 (Rev.WRC–19).

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(517) * * *

(i) 5.517A The operation of earth stations in motion communicating with geostationary fixed-satellite service space stations within the frequency bands 17.7–19.7 GHz (space-to-Earth) and 27.5–29.5 GHz (Earth-to-space) shall be subject to the application of Resolution 169 (WRC–19).

(ii) [Reserved]

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(530) * * *

(ii) 5.530E The allocation to the fixed service in the frequency band 21.4–22 GHz is identified for use in Region 2 by high-altitude platform stations (HAPS). This identification does not preclude the use of this frequency band by other fixed-service applications or by other services to which it is allocated on a co-primary basis, and does not establish priority in the Radio Regulations. Such use of the fixed-service allocation by HAPS is limited to the HAPS-to-ground direction, and shall be in accordance with the provisions of Resolution 165 (WRC–19).

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(532) * * *

(ii) 5.532AA The allocation to the fixed service in the frequency band 24.25–25.25 GHz is identified for use in Region 2 by high-altitude platform stations (HAPS). This identification does not preclude the use of this frequency band by other fixed-service applications or by other services to which this frequency band is allocated on a co-primary basis, and does not establish priority in the Radio Regulations. Such use of the fixed-service allocation by HAPS is limited to the HAPS-to-ground direction and shall be in accordance with the provisions of Resolution 166 (WRC–19).

(iii) 5.532AB The frequency band 24.25–27.5 GHz is identified for use by administrations wishing to implement the terrestrial component of International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. Resolution 242 (WRC–19) applies.

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(534) 5.534A The allocation to the fixed service in the frequency band 25.25–27.5 GHz is identified in Region 2 for use by high-altitude platform stations (HAPS) in accordance with the provisions of Resolution 166 (WRC–19). Such use of the fixed-service allocation by HAPS shall be limited to the ground-to-HAPS direction in the frequency band 25.25–27.0 GHz and to the HAPS-to-ground direction in the frequency band 27.0–27.5 GHz. Furthermore, the use of the frequency band 25.5–27.0 GHz by HAPS shall be limited to gateway links. This identification does not preclude the use of this frequency band by other fixed-service applications or by other services to which this band is allocated on a co-primary basis, and does not establish priority in the Radio Regulations.

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(536) * * *

(i) 5.536A Administrations operating earth stations in the Earth exploration-satellite service or the space research service shall not claim protection from stations in the fixed and mobile services operated by other administrations. In addition, earth stations in the Earth exploration-satellite service or in the space research service should be operated taking into account the most recent version of Recommendation ITU–R SA.1862. Resolution 242 (WRC–19) applies.

(ii) 5.536B In Algeria, Saudi Arabia, Austria, Bahrain, Belgium, Brazil, China, Korea (Rep. of), Denmark, Egypt, United Arab Emirates, Estonia, Finland, Hungary, India, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jordan, Kenya, Kuwait, Lebanon, Libya, Lithuania, Moldova, Norway, Oman, Uganda, Pakistan, the Philippines, Poland, Portugal, Qatar, the Syrian Arab Republic, Dem. People's Rep. of Korea, Slovakia, the Czech Rep., Romania, the United Kingdom, Singapore, Slovenia, Sudan, Sweden, Tanzania, Turkey, Viet Nam and Zimbabwe, earth stations operating in the Earth exploration-satellite service in the frequency band 25.5–27 GHz shall not claim protection from, or constrain the use and deployment of, stations of the fixed and mobile services. Resolution 242 (WRC–19) applies.

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(537) * * *

(i) 5.537A In Bhutan, Cameroon, China, Korea (Rep. of), the Russian Federation, India, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Kazakhstan, Malaysia, Maldives, Mongolia, Myanmar, Uzbekistan, Pakistan, the Philippines, Kyrgyzstan, the Dem. People's Rep. of Korea, Sudan, Sri Lanka, Thailand and Viet Nam, the allocation to the fixed service in the frequency band 27.9–28.2 GHz may also be used by high altitude platform stations (HAPS) within the territory of these countries. Such use of 300 MHz of the fixed-service allocation by HAPS in the above countries is further limited to operation in the HAPS-to-ground direction and shall not cause harmful interference to, nor claim protection from, other types of fixed-service systems or other co-primary services. Furthermore, the development of these other services shall not be constrained by HAPS. See Resolution 145 (Rev.WRC–19).

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(543) * * *

(i) 5.543B The allocation to the fixed service in the frequency band 31–31.3 GHz is identified for worldwide use by high-altitude platform stations (HAPS). This identification does not preclude the use of this frequency band by other fixed-service applications or by other services to which this frequency band is allocated on a co-primary basis, and does not establish priority in the Radio Regulations. Such use of the fixed-service allocation by HAPS shall be in accordance with the provisions of Resolution 167 (WRC–19).

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(546) 5.546 *Different category of service:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Egypt, the United Arab Emirates, Spain, Estonia, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Israel, Jordan, Lebanon, Moldova, Mongolia, Oman, Uzbekistan, Poland, the Syrian Arab Republic, Kyrgyzstan, Romania, the United Kingdom, South Africa, Tajikistan, Turkmenistan and Turkey, the allocation of the frequency band 31.5–31.8 GHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 5.33).

(547) 5.547 The bands 31.8–33.4 GHz, 37–40 GHz, 40.5–43.5 GHz, 51.4–52.6 GHz, 55.78–59 GHz and 64–66 GHz are

available for high-density applications in the fixed service (see Resolution 75 (Rev.WRC–12)). Administrations should take this into account when considering regulatory provisions in relation to these bands. Because of the potential deployment of high-density applications in the fixed-satellite service in the bands 39.5–40 GHz and 40.5–42 GHz (see para. (b)(516)(ii) of this section), administrations should further take into account potential constraints to high-density applications in the fixed service, as appropriate.

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(550) * * *

(ii) 5.550B The frequency band 37–43.5 GHz, or portions thereof, is identified for use by administrations wishing to implement the terrestrial component of International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. Because of the potential deployment of FSS earth stations within the frequency range 37.5–42.5 GHz and high-density applications in the fixed-satellite service in the frequency bands 39.5–40 GHz in Region 1, 40–40.5 GHz in all Regions and 40.5–42 GHz in Region 2 (see paragraph (b)(516)(ii) of this section), administrations should further take into account potential constraints to IMT in these frequency bands, as appropriate. Resolution 243 (WRC–19) applies.

(iii) 5.550C The use of the frequency bands 37.5–39.5 GHz (space-to-Earth), 39.5–42.5 GHz (space-to-Earth), 47.2–50.2 GHz (Earth-to-space) and 50.4–51.4 GHz (Earth-to-space) by a non-geostationary-satellite system in the fixed-satellite service is subject to the application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service but not with non-geostationary-satellite systems in other services. Resolution 770 (WRC–19) shall also apply, and No. 22.2 shall continue to apply.

(iv) 5.550D The allocation to the fixed service in the frequency band 38–39.5 GHz is identified for worldwide use by administrations wishing to implement high-altitude platform stations (HAPS). In the HAPS-to-ground direction, the HAPS ground station shall not claim protection from stations in the fixed, mobile and fixed-satellite services; and No. 5.43A does not apply. This identification does not preclude the use of this frequency band by other fixed-service applications or by other services to which this frequency band is allocated on a co-primary basis and does not establish priority in the Radio Regulations. Furthermore, the development of the fixed-satellite, fixed and mobile services shall not be unduly constrained by HAPS. Such use of the fixed-service allocation by HAPS shall be in accordance with the provisions of Resolution 168 (WRC–19).

(v) 5.550E The use of the frequency bands 39.5–40 GHz and 40–40.5 GHz by non-geostationary-satellite systems in the mobile-satellite service (space-to-Earth) and by non-geostationary-satellite systems in the fixed-satellite service (space-to-Earth) is subject to the application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite and mobile-satellite services but not with non-geostationary-satellite systems in other services. No. 22.2 shall continue to apply for non-geostationary-satellite systems.

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(552) * * *

(i) 5.552A The allocation to the fixed service in the frequency bands 47.2–47.5 GHz and 47.9–48.2 GHz is identified for use by high-altitude platform stations (HAPS). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated on a co-primary basis, and does not establish priority in the Radio Regulations. Such use of the fixed-service allocation in the frequency bands 47.2–47.5 GHz and 47.9–48.2 GHz by HAPS shall be in accordance with the provisions of Resolution 122 (Rev.WRC–19).

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(553) * * *

(i) 5.553A In Algeria, Angola, Bahrain, Belarus, Benin, Botswana, Brazil, Burkina Faso, Cabo Verde, Korea (Rep. of), Côte d'Ivoire, Croatia, United Arab Emirates, Estonia, Eswatini, Gabon, Gambia, Ghana, Greece, Guinea, Guinea-Bissau, Hungary, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, Lesotho, Latvia, Liberia, Lithuania, Madagascar, Malawi, Mali, Morocco, Mauritius, Mauritania, Mozambique, Namibia, Niger, Nigeria, Oman, Qatar, Senegal, Seychelles, Sierra Leone, Slovenia, Sudan, South Africa, Sweden, Tanzania, Togo, Tunisia, Zambia and Zimbabwe, the frequency band 45.5–47 GHz is identified for use by administrations wishing to implement the terrestrial component of International Mobile Telecommunications (IMT), taking into account paragraph (b)(553) of this section. With respect to the aeronautical mobile service and radionavigation service, the use of this frequency band for the implementation of IMT is subject to agreement obtained under No. 9.21 with concerned administrations and shall not cause harmful interference to, or claim protection from these services. This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. Resolution 244 (WRC–19) applies.

(ii) 5.553B In Region 2 and Algeria, Angola, Saudi Arabia, Australia, Bahrain, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Rep., Comoros, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Djibouti, Egypt, United Arab Emirates, Eswatini, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, India, Iran (Islamic Republic of), Iraq, Japan, Jordan, Kenya, Kuwait, Lesotho, Liberia, Libya, Lithuania, Madagascar, Malaysia, Malawi, Mali, Morocco, Mauritius, Mauritania, Mozambique, Namibia, Niger, Nigeria, Oman, Uganda, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Singapore, Slovenia, Somalia, Sudan, South Sudan, South Africa, Sweden, Tanzania, Chad, Togo, Tunisia, Zambia and Zimbabwe, the frequency band 47.2–48.2 GHz is identified for use by administrations wishing to implement International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated, and does not establish any priority in the Radio Regulations. Resolution 243 (WRC–19) applies.

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(555) * * *

(ii) 5.555C The use of the frequency band 51.4–52.4 GHz by the fixed-satellite service (Earth-to-space) is limited to geostationary-satellite networks. The earth stations shall be limited to gateway earth stations with a minimum antenna diameter of 2.4 metres.

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(559) * * *

(i) 5.559AA The frequency band 66–71 GHz is identified for use by administrations wishing to implement the terrestrial component of International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which this frequency band is allocated and does not establish priority in the Radio

Regulations. Resolution 241 (WRC–19) applies.

(ii) 5.559B The use of the frequency band 77.5–78 GHz by the radiolocation service shall be limited to short-range radar for ground-based applications, including automotive radars. The technical characteristics of these radars are provided in the most recent version of Recommendation ITU–R M.2057. The provisions of No. 4.10 do not apply.

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(562) * * *

(ii) 5.562B In the frequency bands 105–109.5 GHz, 111.8–114.25 GHz and 217–226 GHz, the use of this allocation is limited to space-based radio astronomy only.

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(564) 5.564A For the operation of fixed and land mobile service applications in frequency bands in the range 275–450 GHz: The frequency bands 275–296 GHz, 306–313 GHz, 318–333 GHz and 356–450 GHz are identified for use by administrations for the implementation of land mobile and fixed service applications, where no specific conditions are necessary to protect Earth exploration-satellite service (passive) applications. The frequency bands 296–306 GHz, 313–318 GHz and 333–356 GHz may only be used by fixed and land mobile service applications when specific conditions to ensure the protection of Earth exploration-satellite service (passive) applications are determined in accordance with Resolution 731 (Rev.WRC–19). In those portions of the frequency range 275–450 GHz where radio astronomy applications are used, specific conditions (*e.g.* minimum separation distances and/or avoidance angles) may be necessary to ensure protection of radio astronomy sites from land mobile and/or fixed service applications, on a case-by-case basis in accordance with Resolution 731 (Rev.WRC–19). The use of the above-mentioned frequency bands by land mobile and fixed service applications does not preclude use by, and does not establish priority over, any other applications of radio services in the range of 275–450 GHz.

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(c) * * *

(1) US1 The bands 2501–2502 kHz, 5003–5005 kHz, 10.003–10.005 MHz, 15.005–15.01 MHz, 19.99–19.995 MHz, 20.005–20.01 MHz, and 25.005–25.01 MHz are also allocated to the space research service on a secondary basis for Federal use. In the event of interference to the reception of the standard frequency and time broadcasts, these space research transmissions are subject to immediate temporary or permanent shutdown.

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(52) US52 In the VHF maritime mobile band (156–162 MHz), the following provisions apply:

(i) Except as provided for below, the use of the bands 161.9625–161.9875 MHz (AIS 1 with center frequency 161.975 MHz) and 162.0125–162.0375 MHz (AIS 2 with center frequency 162.025 MHz) by the maritime mobile and mobile-satellite (Earth-to-space) services is restricted to Automatic Identification Systems (AIS). The use of these bands by the aeronautical mobile (OR) service is restricted to AIS emissions from search and rescue aircraft operations. Frequencies in the AIS 1 band may continue to be used by non-Federal base, fixed, and land mobile stations until March 2, 2024.

(ii) The use of the bands 156.7625–156.7875 MHz (AIS 3 with center frequency 156.775 MHz) and 156.8125–156.8375 MHz (AIS 4 with center frequency 156.825 MHz) by the mobile-satellite service (Earth-to-space) is restricted to the reception of long-range AIS broadcast messages from ships (Message 27; see most recent version of Recommendation ITU–R M.1371).

(iii) The frequency 156.3 MHz may also be used by aircraft stations for the purpose of search and rescue operations and other safety-related communication.

(iv) Federal stations in the maritime mobile service may also be authorized as follows:

(A) Vessel traffic services under the control of the U.S. Coast Guard on a simplex basis by coast and ship stations on the frequencies 156.25, 156.55, 156.6 and 156.7 MHz;

(B) Inter-ship use of the frequency 156.3 MHz on a simplex basis;

(C) Navigational bridge-to-bridge and navigational communications on a simplex basis by coast and ship stations on the frequencies 156.375 and 156.65 MHz;

(D) Port operations use on a simplex basis by coast and ship stations on the frequencies 156.6 and 156.7 MHz;

(E) Environmental communications on the frequency 156.75 MHz in accordance with the national plan; and

(F) Duplex port operations use of the frequencies 157 MHz for ship stations and 161.6 MHz for coast stations.

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(79) * * *

(iii) US79A The use of the bands 415–472 kHz, 479–495 kHz, and 505–510 kHz by the maritime mobile service is limited to radiotelegraphy.

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(82) US82 In the bands 4146–4152 kHz, 6224–6233 kHz, 8294–8300 kHz, 12.353–12.368 MHz, 16.528–16.549 MHz, 18.825–18.846 MHz, 22.159–22.18 MHz, and 25.1–25.121 MHz, the assignable frequencies may be authorized on a shared non-priority basis to Federal and non-Federal ship and coast stations (SSB telephony, with peak envelope power not to exceed 1 kW).

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(100) US100 The bands 2310–2320 and 2345–2360 MHz are available for Federal aeronautical telemetering and associated telecommand operations for flight testing of manned or unmanned aircraft, missiles, or major components thereof, on a secondary basis to the Wireless Communications Service (WCS). The frequencies 2312.5 MHz and 2352.5 MHz are shared on a co-equal basis by Federal stations for telemetering and associated telecommand operations of expendable and reusable launch vehicles, irrespective of whether such operations involve flight testing. Other Federal mobile telemetering uses may be provided in the bands 2310–2320 and 2345–2360 MHz on a non-interference basis to all other uses authorized pursuant to this paragraph (c)(100).

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(247) US247 The band 10.1–10.15 MHz is allocated to the fixed service on a primary basis outside the United States and its insular areas. Transmissions from stations in the amateur service must not cause harmful interference to this fixed service use and stations in the amateur service must make all necessary adjustments (including termination of transmission) if harmful interference is caused.

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(281) US281 In the band 25.07–25.21 MHz, non-Federal stations in the Industrial/Business Pool must not cause harmful interference to, and must accept interference from, stations in the maritime mobile service operating in accordance with the Table of Frequency Allocations.

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(283) US283 In the bands 2850–3025 kHz, 3400–3500 kHz, 4650–4700 kHz, 5450–5680 kHz, 6525–6685 kHz, 10.005–10.1 MHz, 11.275–11.4 MHz, 13.26–13.36 MHz, and 17.9–17.97 MHz, frequencies may be authorized for non-Federal flight test purposes on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

* * * * *

(296) US296 In the bands designated for ship wide-band telegraphy, facsimile and special transmission systems, the

following assignable frequencies are available to non-Federal stations on a shared basis with Federal stations: 2070.5 kHz, 2072.5 kHz, 2074.5 kHz, 2076.5 kHz, 4154 kHz, 4170 kHz, 6235 kHz, 6259 kHz, 8302 kHz, 8338 kHz, 12.37 MHz, 12.418 MHz, 16.551 MHz, 16.615 MHz, 18.848 MHz, 18.868 MHz, 22.182 MHz, 22.238 MHz, 25.123 MHz, and 25.159 MHz.

* * * * *

(312) US312 The frequency 173.075 MHz may also be authorized on a primary basis to non-Federal stations in the Public Safety Radio Pool, limited to police licensees and an authorized bandwidth not to exceed 12.5 kHz, for stolen vehicle recovery systems.

* * * * *

(342) US342 In making assignments to stations of other services to which the bands in table 17 to paragraph (c)(342) of this section are allocated (*indicates radio astronomy use for spectral line observations), all practicable steps must be taken to protect the radio astronomy service from harmful interference. Emissions from spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (*see* ITU *Radio Regulations* at Nos. 4.5 and 4.6 and Article 29).

TABLE 17 TO PARAGRAPH (c)(342)

13.36–13.41 MHz	42.77–42.87 GHz.*
25.55–25.67 MHz	43.07–43.17 GHz.*
37.5–38.25 MHz	43.37–43.47 GHz.*
322–328.6 MHz*	48.94–49.04 GHz.*
1330–1400 MHz*	76–86 GHz.
1610.6–1613.8 MHz*	92–94 GHz.
1660–1660.5 MHz*	94.1–100 GHz.
1668.4–1670 MHz*	102–109.5 GHz.
3260–3267 MHz*	111.8–114.25 GHz.
3332–3339 MHz*	128.33–128.59 GHz.*
3345.8–3352.5 MHz*	129.23–129.49 GHz.*
4825–4835 MHz*	130–134 GHz.
4950–4990 MHz	136–148.5 GHz.
6650–6675.2 MHz*	151.5–158.5 GHz.
14.47–14.5 GHz*	168.59–168.93 GHz.*
22.01–22.21 GHz*	171.11–171.45 GHz.*
22.21–22.5 GHz	172.31–172.65 GHz.*
22.81–22.86 GHz*	173.52–173.85 GHz.*
23.07–23.12 GHz*	195.75–196.15 GHz.*
31.2–31.3 GHz	209–226 GHz.
36.43–36.5 GHz*	241–250 GHz.
42.5–43.5 GHz	252–275 GHz.

* * * * *

(444) * * *

(ii) US444B In the band 5091–5150 MHz, the following provisions apply to the aeronautical mobile service:

(A) Use is restricted to:

(*1*) Systems operating in the aeronautical mobile (R) service (AM(R)S) in accordance with international aeronautical standards, limited to surface applications at airports, and in accordance with Resolution 748 (Rev.WRC–12) (*i.e.,* AeroMACS); and

(*2*) Aeronautical telemetry transmissions from aircraft stations (AMT) in accordance with Resolution 418 (Rev.WRC–19).

(B) Consistent with Radio Regulation No. 4.10, airport surface wireless systems operating in the AM(R)S have priority over AMT systems in the band.

(C) Operators of AM(R)S and AMT systems at the following airports are urged to cooperate with each other in the exchange of information about planned deployments of their respective systems so that the prospects for compatible sharing of the band are enhanced:

(*1*) Boeing Field/King County Intl Airport, Seattle, WA;

(*2*) Lambert-St. Louis Intl Airport, St. Louis, MO;

(*3*) Charleston AFB/Intl Airport, Charleston, SC;

(*4*) Wichita Dwight D. Eisenhower National Airport, Wichita, KS;

(*5*) Roswell Intl Air Center Airport, Roswell, NM; and

(*6*) William P. Gwinn Airport, Jupiter, FL. Other airports may be addressed on a case-by-case basis.

(D) Aeronautical fixed communications that are an integral part of the AeroMACS system authorized in paragraph (c)(444)(ii)(A)(*1*) of this section are also authorized on a primary basis.

* * * * *

(d) * * *

(33) NG33 In the band 614–698 MHz, the following provisions apply. In the sub-bands 617–652 MHz and 663–698 MHz, low power television and TV translator stations may operate on a secondary basis to stations in the fixed and mobile services until required to terminate their operations in accordance with § 73.3700(g)(4) of this chapter, and white space devices may also operate in these sub-bands, except in those areas where their use is prohibited in accordance with §§ 15.707(a)(5) and 15.713(b)(2)(iv) of this chapter. In addition, white space devices may operate in the sub-band 657–663 MHz in accordance with § 15.707(a)(2) of this chapter, low power auxiliary stations may operate in the sub-band 653–657 MHz, and unlicensed wireless microphones may operate in the sub-bands 614–616 MHz and 657–663 MHz.

* * * * *

(169) NG169 In the band 3650–3700 MHz, use of the non-Federal fixed-satellite service (space-to-Earth) is limited to international inter-continental systems and, after December 1, 2000, primary operations are limited to grandfathered earth stations. All other earth station operations in the band 3650–3700 MHz are authorized on a secondary basis. Grandfathered earth stations are those authorized prior to December 1, 2000, or granted as a result of an application filed prior to December 1, 2000, and constructed within 12 months of initial authorization. License applications for primary operations for new earth stations, major amendments to pending earth station applications, or applications for major modifications to earth station facilities filed on or after December 18, 1998, and prior to

December 1, 2000, will not be accepted unless the proposed facilities are within 16.1 kilometers (10 miles) of an authorized primary earth station operating in the band 3650–3700 MHz. License applications for primary operations by new earth stations, major amendments to pending earth station applications, and applications for major modifications to earth station facilities, filed after December 1, 2000, will not be accepted, except for changes in polarization, antenna orientation or ownership of a grandfathered earth station.

* * * * *

(e) * * *

(2) G2 In the bands 216.965–216.995 MHz, 420–450 MHz (except as provided for in G129), 890–902 MHz, 928–942 MHz, 1300–1390 MHz, 2310–2390 MHz, 2417–2450 MHz, 2700–2900 MHz, 3300–3500 MHz, 5650–5925 MHz, and 9000–9200 MHz, use of the Federal radiolocation service is restricted to the military services.

* * * * *

(32) G32 Except for weather radars on meteorological satellites in the band 9.975–10.025 GHz and for Federal survey operations (see paragraph (c)(108) of this section), Federal radiolocation in the band 10–10.5 GHz is limited to the military services.

* * * * *

(115) G115 In the band 13.36–13.41 MHz, the fixed service is allocated on a primary basis outside the conterminous United States. Within the conterminous United States, assignments in the fixed service are permitted, and will be protected for national defense purposes or, if they are to be used only in an emergency jeopardizing life, public safety, or important property under conditions calling for immediate communication where other means of communication do not exist.

* * * * *

(132) G132 Use of the radionavigation-satellite service in the band 1215–1240 MHz shall be subject to the condition that no harmful interference is caused to, and no protection is claimed from, the radionavigation service authorized under paragraph (b)(331) of this section. Furthermore, the use of the radionavigation-satellite service in the band 1215–1240 MHz shall be subject to the condition that no harmful interference is caused to the radiolocation service. ITU Radio Regulation No. 5.43 shall not apply in respect of the radiolocation service. ITU Resolution 608 (Rev.WRC–19) shall apply.

* * * * *

[FR Doc. 2023–14656 Filed 9–28–23; 8:45 am]

BILLING CODE 6712–01–P



FEDERAL REGISTER

Vol. 88 Friday,
No. 188 September 29, 2023

Part IV

National Credit Union Administration

12 CFR Parts 701 and 714
Financial Innovation: Loan Participations, Eligible Obligations, and Notes of Liquidating Credit Unions; Final Rule

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 714

[NCUA–2022–0185]

RIN 3133–AF49, 3133–AE96

Financial Innovation: Loan Participations, Eligible Obligations, and Notes of Liquidating Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending the NCUA's regulations regarding the purchase of loan participations and the purchase, sale, and pledge of eligible obligations and other loans (including notes of liquidating credit unions). The final rule clarifies the NCUA's current regulations and provides additional flexibility for federally insured credit unions (FICUs) to make use of advanced technologies and opportunities offered by the financial technology (fintech) sector. The final rule also amends the NCUA's rule regarding loans to members and lines of credit to members by adding new provisions about indirect lending arrangements and indirect leasing arrangements. Finally, the final rule makes certain conforming changes and technical amendments to the NCUA's regulations. The Board does not view the conforming changes and technical amendments as substantive.

DATES: This final rule is effective October 30, 2023.

FOR FURTHER INFORMATION CONTACT: *For policy questions:* Naghi Khaled, Director of Credit Markets, the Office of Examination and Insurance, at (703) 518–6360; *for legal questions:* Frank Kressman, General Counsel, the Office of General Counsel, at (703) 518–6540; or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

On December 30, 2022, the Board issued a proposed rule to amend §§ 701.21, 701.22, 701.23, and part 714 of the NCUA's regulations regarding the purchase of loan participations and the purchase, sale, and pledge of eligible obligations and other loans (including notes of liquidating credit unions).[1] The Board intended the proposal to provide FICUs with additional flexibility to make use of advanced technologies and opportunities offered by the fintech sector. In addition, the proposed amendments were intended to clarify ambiguities related to loan participations and eligible obligations and shift from a prescriptive to a more principles-based approach in certain areas.

The Board believes shifting to a more principles-based approach with respect to loan participations and eligible obligations is appropriate and will be beneficial to FICUs. The intent behind the final rule is to advance the NCUA's efforts to strike an appropriate balance between mitigating risk to the National Credit Union Share Insurance Fund (Share Insurance Fund), protecting credit union members, and fostering growth and stability in the credit union system by removing certain prescriptive limits and other qualifying conditions, and replacing them with risk-focused, principles-based requirements. The proposed shift to more principles-based requirements is intended to provide FICUs with additional flexibility to innovate in terms of how they manage their balance sheets while offering new or enhanced services to their members. The Board believes the proposed changes will increase FICUs' ability to engage in lending arrangements with other financial institutions and third parties, including fintech companies providing lending services, and expand their access to diverse loan origination channels, new markets, including the underserved, and potential new services for their members.

B. Summary of the Final Rule

The Board is now amending the NCUA's regulations regarding the purchase of loan participations and the purchase, sale, and pledge of eligible obligations and other loans (including notes of liquidating credit unions). The final rule adopts the amendments largely as proposed with a few changes, which are discussed in the section-by-section analysis of the preamble below. The final rule relocates and clarifies the NCUA's provisions regarding indirect lending and indirect leasing. The final rule also provides credit unions with additional flexibility to participate in loans acquired through indirect lending arrangements, allowing FICUs to use advanced technologies and opportunities offered by the fintech sector. In addition, the final rule removes certain prescriptive limitations and other qualifying requirements relating to eligible obligations and provides credit unions with additional flexibility to purchase eligible obligations of their members.

Removing the prescriptive limitations and other qualifying requirements is intended to allow FCUs additional flexibility to engage with the advanced technologies and other opportunities offered by the fintech sector. The greater flexibility and individual autonomy will also allow FCUs to establish their own risk tolerance limits and governance policies for these activities provided they are safe and sound given the FCU's financial and operational capabilities, while codifying due diligence, risk assessment, compliance and other management processes that are consistent with the Board's long-standing expectations for safe, sound, fair, and affordable lending practices.

As discussed in greater detail in the section-by-section analysis of the preamble, the final rule amends § 701.21 of the NCUA's regulations to add new paragraph (c)(9) regarding indirect lending and indirect leasing arrangements. The new paragraph replaces the language defining indirect lending and indirect leasing arrangements under current § 701.23(b)(4)(iv).

The final rule also amends § 701.22 of the NCUA's regulations. In particular, the final rule makes certain clarifying amendments to the introductory paragraph, and codifies NCUA Legal Opinion 15–0813, Loan Participations in Indirect Loans—Originating Lender.[2] The codification of Legal Opinion 15–0813 clarifies that a FICU engaged in an indirect lending relationship can meet the definition of ''originating lender'' under § 701.22 of the NCUA's regulations, provided the FICU meets certain conditions. For purposes of § 701.22, a FICU is considered the originating lender if the FICU makes the final underwriting decision regarding the loan, and the loan is assigned to the purchaser very soon after the inception of the obligation to extend credit.

In addition, the final rule amends § 701.23 of the NCUA's current regulations as follows:

- Makes clarifying and conforming amendments to the introductory paragraph.
- Removes the CAMELS ratings and well-capitalized requirements under

[1] Note that the terms credit union, federal credit union, federally insured, state-chartered credit union, corporate credit union, and FICU are used throughout the document and are not necessarily interchangeable. Specifically, while § 701.23 applies to federal credit unions (FCUs) only, § 701.22 applies to all federally insured consumer credit unions, and § 701.21 has provisions that apply to all federally insured credit unions.

[2] NCUA Legal Op. 15–0813 (Aug. 10, 2015) *available at https://www.ncua.gov/regulation-supervision/legal-opinions/2015/loan-participations-indirect-loans-originating-lenders.*

paragraph (b)(2) for FCU purchases of certain non-member loans from FICUs.

- Narrows the application of the 5-percent limit on the purchase of eligible obligations to cover only purchases of notes of liquidating credit unions.
- Adds safety and soundness requirements to paragraph (b)(6)(i)–(vi) concerning the purchase of eligible obligations, to offset risks associated with removing the CAMELS ratings and well-capitalized requirements from paragraph (b)(2). Safety and soundness requirements would apply to all FCUs engaged in the purchase of eligible obligations and notes from a liquidating credit union. In particular, the final rule requires an FCU purchasing eligible obligations or notes from a liquidating credit union to comply with the following:
  - Establish written, board-approved policies, risk assessments, and risk management processes that are commensurate with the size, scope, type, complexity, and level of risk posed by the planned purchase activities. These policies would include underwriting standards for the loans, ongoing performance and risk monitoring, including compliance risk, tailored to the types of loans purchased and the sellers as applicable, and portfolio concentration limits by loan types and risk categories in relation to net worth;
  - Conduct due diligence on a seller prior to a purchase;
  - Include certain contract language and provisions in the written loan purchase agreements (similar to the standards currently established for loan participation agreements under § 701.22 of the NCUA's regulations); and
  - Address in internal written purchase policies when a legal review of agreements or contracts will be performed to ensure that the legal and business interests of the credit union are protected against undue risk.
- Revises the definition of ''eligible obligation'' under paragraph (a)(1) to clarify the distinction between transactions treated as loan participations and those treated as eligible obligations.
- Revises the applicability of the 5-percent limitation under current paragraph (b)(4) to cover only ''notes'' purchased by an FCU from a liquidating credit union.
- Revises the ''grandfathered purchases'' section to include eligible obligation purchases that were executed before the effective date of this final rule, provided the purchases complied with the version of the rule that was effective at the time the transaction was executed, and subject to safety and soundness and other compliance considerations.
- Adds safety and soundness requirements to paragraph (c) concerning the sale of eligible obligations, requiring the selling FCU to do the following:
  - Obtain a review and assessment of all applicable loan sale agreements or contracts to protect the FCU's legal and business interests; and
  - Identify the specific loan(s) being sold either directly in the written loan sale agreement or through a document incorporated by reference into the loan sale agreement.

The final rule also amends § 714.9 of the NCUA's regulations to make certain non-substantive amendments related to changes to current § 701.23(b)(4)(iv).

Finally, the final rule also makes certain conforming changes and technical amendments in other sections of the NCUA's regulations. The Board does not view these additional conforming technical changes as substantive.

C. Effective Date

Under the Administrative Procedure Act, the NCUA is generally required to provide a minimum of 30 days from the date of publication in the **Federal Register** before a final rule becomes effective.[3] The final rule will become effective 30 days after the date of publication in the **Federal Register** so it can go into effect as quickly as possible to give credit unions prompt access to the numerous beneficial changes it makes.

II. Legal Authority

Section 120(a)[4] of the Federal Credit Union Act (Act) authorizes the Board to prescribe rules and regulations for the administration of the Act.[5] Similarly, section 209[6] of the Act authorizes the Board to prescribe such rules and regulations as it may deem necessary or appropriate to carry out the share insurance provisions of subchapter II of the Act. In addition, section 206 of the Act provides the Board with broad authority to take enforcement action against a FICU or an ''institution-affiliated party''[7] that is engaging or has engaged, or the Board has reasonable cause to believe is about to engage, in an unsafe or unsound practice in conducting the business of such credit union.[8] Congress chose not to define ''unsafe or unsound practices'' in the Act, leaving determinations regarding which actions are unsafe or unsound to the Board.

Section 107(5)(E) of the Act authorizes FCUs to engage in participation lending with other credit unions, credit union organizations, or financial organizations in accordance with written policies of the credit union's board of directors.[9] Section 107(5)(E) also provides that an FCU that originates a loan for which participation arrangements are made in accordance with this subsection shall retain an interest of at least 10 per centum of the face amount of the loan.[10]

Section 107(13) of the Act authorizes FCUs, in accordance with rules and regulations prescribed by the Board, to purchase, sell, pledge, or discount or otherwise receive or dispose of, in whole or in part, any eligible obligation (as defined by the Board) of its members.[11] In addition, section 107(13) authorizes FCUs, in accordance with rules and regulations prescribed by the Board, to purchase from any liquidating credit union notes made by individual members of the liquidating credit union at such prices as may be agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union, but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased

[3] 5 U.S.C. 553(d).

[4] 12 U.S.C. 1766(a) (The Board may prescribe rules and regulations for the administration of 12 U.S.C. chapter 14 (including, but not by way of limitation, the merger, consolidation, and dissolution of corporations organized under the chapter). Any central credit union chartered by the Board shall be subject to such rules, regulations, and orders as the Board deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to all Federal credit unions under the chapter.).

[5] Sections 1751-1795k.

[6] Section 1789(11) (providing in relevant part as follows: ''In carrying out the purposes of this subchapter, the Board may—[. . .] prescribe such rules and regulations as it may deem necessary or appropriate to carry out the provisions of [12 U.S.C. 1781–1790e].'').

[7] *See* section 1786(r) (providing that for purposes of the FCU Act, the term ''institution-affiliated party'' means—(1) any committee member, director, officer, or employee of, or agent for, an insured credit union; (2) any consultant, joint venture partner, and any other person as determined by the Board (by regulation or on a case-by-case basis) who participates in the conduct of the affairs of an insured credit union; and (3) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in—(A) any violation of any law or regulation; (B) any breach of fiduciary duty; or (C) any unsafe or unsound practice, which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insured credit union.).

[8] Section 1786.

[9] Section 1757(5)(e).

[10] *Id.*

[11] Section 1757(13).

under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union.[12]

Section 107(14) of the Act authorizes FCUs, subject to regulations of the Board, to sell all or a part of their assets to another credit union, to purchase all or part of the assets of another credit union, and to assume the liabilities of the selling credit union and those of its members.[13]

III. Section-by-Section Analysis of the Final Rule and Comments on the Proposal

The NCUA received 42 unique comment letters on the proposed rule. In general, the overwhelming majority of commenters strongly supported the proposed rule and agreed with the NCUA regarding the need for and the rationale supporting the proposed changes. The commenters also agreed with the proposal's shift toward more principles-based regulations and suggested the proposed changes would allow credit unions to be nimble in the future. Accordingly, the Board is now issuing this final rule to adopt the amendments proposed with certain changes that are discussed in more detail in the parts of the preamble below corresponding with the amended sections.

The NCUA has summarized the comments received that were within the scope of this rulemaking under the parts of the preamble below corresponding with the amended sections and subsections. The NCUA received many comments that were outside the scope of this rulemaking. The NCUA has read and is considering the comments beyond the scope of this rule for future rulemakings. Most of the comments received that go beyond the scope of the proposal, even if summarized, are not specifically responded to by the NCUA in the preamble to this final rule.

A. Part 701 Organization and Operation of Federal Credit Unions

As discussed in more detail below, this final rule makes several changes to sections in part 701 of the NCUA's regulations. These changes clarify numerous provisions regarding loans to members and lines of credit to members under § 701.21; loan participations under § 701.22; and the purchase, sale, and pledge of eligible obligations under § 701.23. In addition, the final rule amends the NCUA's current regulatory requirements under §§ 701.22 and 701.23. The amended requirements would provide FICUs expanded authority and autonomy to innovate and transact business with fintech companies and other institutions that provide services associated with the origination and sale of loans made to members of FICUs.

Public Comments

Several commenters noted that the proposed changes would clarify credit unions' loan participation and eligible obligation authorities, benefiting not only credit unions but also NCUA examiners and various other stakeholders. In addition, many commenters expressly offered support for the proposal's general shift toward a more principles-based approach with respect to the NCUA's loan participation and eligible obligation regulations. One commenter suggested that prescriptive regulations, with fixed limits and rules, prevent credit unions from evolving with shifting market forces (*e.g.,* the rise of fintechs). The commenter explained further that a principles-based approach to risk tolerance and appetite will provide the opportunity for credit union service organizations (CUSOs) to create comprehensive underwriting guidelines acceptable to all participating credit unions, which will allow credit unions to collectively compete against banks and other financial institutions and be more attractive to lending platform providers, original automotive equipment manufacturers, and point of sale retailers. Another commenter specifically asked that the Board not adopt new prescriptive definitions and regulations. The commenter requested further that all safety and soundness standards imposed in the final rule should be sufficiently flexible to permit credit unions to adopt internal written purchase policy provisions commensurate with the size, scope, type, complexity, and level of risk posed by their individual activities. Several commenters requested, generally, that the NCUA do more to clarify the rules, expand credit unions' authority in this area, or both.

Discussion

Consistent with the strong support received from commenters, the Board is adopting the rule largely as proposed, for the reasons set forth in the notice of proposed rulemaking, with certain changes discussed in the section-by-section analysis below. In addition, several commenters requested additional clarification on certain aspects of the proposal. The NCUA has provided further clarifying guidance to credit unions where appropriate.

Section 701.21 Loans to Members and Lines of Credit to Members

Section 701.21(c) General Rules

As discussed in more detail below, this final rule, as a conforming amendment, adds new provisions to § 701.21 regarding indirect lending arrangements and indirect leasing arrangements. The new provisions take the place of a provision in current § 701.23, which will be removed as part of this final rule.

Public Comments

Most commenters offered support for the proposed changes to the NCUA's regulations regarding indirect lending and indirect leasing arrangements, agreed the proposed changes would provide additional clarification to affected parties, and supported moving the provisions to § 701.21. Moreover, three commenters agreed with the NCUA's assessment that the proposed changes to the definitions of ''indirect lending arrangements'' and ''indirect leasing arrangements'' are unlikely to have a material impact on credit unions' existing and future indirect lending or indirect leasing arrangements. Another commenter agreed that the proposed definitions use language that, while generally similar to the language in current § 701.23(b)(4)(iv), provides much needed, common-sense clarification to both terms.

Discussion

Consistent with the support received from commenters on the proposal, the Board is adopting new paragraph (c)(9) to § 701.21 regarding the indirect loans and indirect leasing arrangements as proposed for the reasons set forth in the notice of proposed rulemaking. Although not raised by commenters, the final rule also adds language and a cross citation to § 714.2(b) to direct readers to new § 701.21(c)(9) and alert them to the relationship between paragraph (c)(9) and part 714 of the NCUA's regulations regarding leasing. No substantive change to the NCUA's regulations is intended by this addition. This addition is discussed in more detail in the part of the preamble associated with part 714 of the final rule.

New § 701.21(c)(9) Indirect Lending and Indirect Leasing Agreements

For reasons discussed in the preamble discussion on current § 701.23(b)(4), the NCUA is deleting current paragraph (b)(4)(iv) regarding indirect lending. Current § 701.23(b)(4)(iv) excludes certain loans acquired through indirect lending arrangements and indirect leasing arrangements from the 5-percent

[12] *Id.*

[13] Section 1757(14).

limit on the aggregate of the unpaid balance of certain loans purchased under § 701.23. While the language excluding loans and leases acquired through indirect lending and indirect leasing arrangements is no longer needed in § 701.23(b)(4), the definition of such arrangements is still relevant for purposes of other provisions in the NCUA's regulations. Under current paragraph (b)(4), and NCUA's long-standing interpretation,[14] loans acquired by an FCU pursuant to an indirect lending arrangement are considered loans made by the FCU under § 701.21, rather than loans purchased under § 701.23. Accordingly, the Board is adding new paragraph (c)(9) regarding indirect lending and indirect leasing arrangements to § 701.21. The paragraph replaces the language defining indirect lending and indirect leasing arrangements under current § 701.23(b)(4)(iv).

New § 701.21(c)(9)(i) Definitions

New § 701.21(c)(9)(i) would define the terms ''indirect leasing arrangement'' and ''indirect lending arrangement'' for purposes of the NCUA's regulations. Current § 701.23(b)(4)(iv) provides that an indirect lending or indirect leasing arrangement that is classified as a loan and not the purchase of an eligible obligation because the FCU makes the final underwriting decision, and the sales or lease contract is assigned to the FCU very soon after it is signed by the member and the dealer or leasing company, is excluded in calculating the 5-percent limit. The NCUA believes splitting the provision in paragraph (b)(4)(iv) into two definitions will help clarify the existing requirements. Accordingly, new § 701.21(c)(9)(i) provides that the term *indirect leasing arrangement* means a written agreement to purchase leases from the leasing company where the purchaser makes the final underwriting decision, and the lease agreement is assigned to the purchaser very soon after it is signed by the member and the leasing company. New paragraph (c)(9)(i) would provide further that the term *indirect lending arrangement* means a written agreement to purchase loans from the loan originator where the purchaser makes the final underwriting decision regarding making the loan, and the loan is assigned to the purchaser very soon after the inception of the obligation to extend credit.

Both new definitions would use language that is generally similar, but not identical, to the language in current § 701.23(b)(4)(iv). The NCUA is revising the language used in current paragraph (b)(4)(iv) to clarify the different requirements that apply to indirect leasing arrangements and indirect lending arrangements. The amendments are not intended to change the current meaning of both terms. The Board specifically requested comment on whether proposed paragraph (c)(9) would have a material impact on credit unions' existing and future indirect lending arrangements, indirect leasing arrangements, or both.

Public Comments

One commenter recommended clarifying the meaning of the phrase ''inception of the obligation to extend credit.'' The commenter asked, as an example of its confusion about the meaning of the phrase, does this mean when the credit union verifies underwriting criteria, when the borrower has a sufficient credit score according to the credit union, or some other step in the process of extending credit?

Discussion

The Board believes the phrase ''inception of the obligation to extend credit'' is clear and unambiguous. Merriam-Webster's Online Dictionary defines the term ''inception'' as ''an act, process, or instance of beginning: COMMENCEMENT.'' [15] The inception of the obligation to extend credit, then, is the point in time when the indirect lender becomes obligated to extend credit to the borrower. As with all its rules, however, the Board will monitor implementation and provide additional clarifying guidance as it deems necessary.

Should the Board further clarify the term ''final underwriting decision''? The Board invited comments in the proposal on what it means for the credit union to make the final underwriting decision regarding making the loan in an indirect lending arrangement. For example, should the rule specify that a credit union in an indirect lending arrangement must be involved or consulted at the time of the extension of credit? In the alternative, should the rule specify that a credit union can simply provide its underwriting standards to the other party in the indirect lending arrangement and clarify in the indirect lending agreement that only those loans meeting the credit union's underwriting standards will be accepted for funding? Would a credit union still be making the final underwriting decision if a third party includes significantly more underwriting criteria that are more restrictive, for example, than the credit union requires?

Public Comments

In response to NCUA's question in the proposed rule preamble, two commenters responded that the NCUA should not define the phrase ''final underwriting decision.'' One of those commenters explained that the implementation of additional requirements through a definition could stifle innovation as new products are created and/or create unintended regulatory burden that may be unnecessary due to the specifics of the underwriting situation. Another commenter responded that, if the credit union has provided its guidelines or other underwriting criteria and has the ability to not approve or not fund a loan that does not meet its criteria, there is no need to make the definition more specific. A third commenter suggested that the current safety and soundness requirements are sufficient to enable a credit union to identify, isolate, and resolve any issues the credit union may later discover.

On the other hand, two commenters asked that the NCUA define the phrase ''final underwriting decision.'' One of those commenters recommended the phrase be defined to avoid ambiguity or potential conflict with existing laws and regulations that require the loan originator to make the final underwriting decision, and situations involving prearranged underwriting and processing agreements between third-party originators and the purchasing credit unions. The commenter recommended further that the definition allow the seller (loan originator) to use the purchasing credit union's underwriting guidelines. Another commenter recommended defining the phrase to clarify that the purchasing FCU is considered to have made the ''final underwriting decision'' so long as the loan conforms to the FCU's pre-approved underwriting criteria, even when a fintech company or other indirect lending partner adds additional, more restrictive underwriting criteria than the FCU requires. In the commenter's opinion, the indirect lending partner is acting as a facilitator on behalf of the credit union in such cases to provide credit enhancements and is not overriding the credit union's underwriting criteria. The commenter also suggested that indirect

[14] *See, e.g.,* NCUA Legal Op. 97–0546 (Aug. 6, 1997), *available at https://www.ncua.gov/regulation-supervision/legal-opinions/1997/indirect-lending.*

[15] *Available at https://www.merriam-webster.com/dictionary/inception.*

lending partners weeding out bad loans in this fashion promotes safety and soundness by reducing credit risk to FCUs, whether the indirect lender uses an algorithm, natural persons' judgment, or both to provide such credit enhancements. To clarify this point, the commenter recommended the definition of ''final underwriting decision'' in § 701.21(c)(9)(i) provide as follows:

The FCU makes the ''final underwriting decision'' so long as:

(1) The FCU establishes by contract that the indirect lending partner must adhere to the underwriting standards set forth in the indirect lending agreement; these underwriting standards are typically included as an appendix or exhibit to the master agreement for the indirect lending relationship; and

(2) The indirect lending partner can apply additional, more restrictive underwriting criteria that go above-and-beyond the FCU's underwriting requirements, whether those additional underwriting criteria are part of an automated loan underwriting system and/or are performed by a natural person individual who is not involved in the disbursement of loan funds.

Several commenters did not expressly recommend defining the phrase ''final underwriting decision,'' but did offer recommendations about how the term should be interpreted. Three commenters asked that credit unions be allowed to charge third-party partners with prescribed standards that must be met and manage the risk of the engagement through due diligence and oversight. One of those commenters asked further that credit unions then be allowed to choose to review loans before or after funding, depending on their comfort and experience with the third-party partner; the expectation being that the credit unions be familiar with the third party's underwriting standards and where those standards might be different (in more or less conservative ways) than their own. Finally, the commenter suggested that the adequacy of a credit union's due diligence and oversight of its third-party partners is a safety and soundness issue best left to examiners in the field. Another one of those commenters suggested that, if the NCUA needed to strengthen this part of the rule to justify making this change, it could consider also adding the following express requirements: (1) the underwriting standards must be within the credit union's approved underwriting and credit policies; (2) the underwriting standards must be clearly referenced in the representations and warranties of the agreement between the fintech/flow partner and the credit union and, if not met, require repurchase of the loans by the fintech/flow partner; and (3) the credit union must, as part of best practices and safety and soundness considerations, review and analyze the indirect loan pools prior to settlement or as soon as practical (for example, in the early part of the month subsequent to the month in which the loans were purchased) to ensure they are compliant with NCUA rules (for example, maturity limits, the statutory maximum interest rate, etc.) and meet the credit ''stips''/guidelines set forth in the agreement between the parties.

Several commenters also recommend that, if the phrase ''final underwriting decision'' is defined, the NCUA not require that credit unions engaged in indirect lending be actively involved or consulted at the time a facilitating partner extends credit to borrowers on the credit union's behalf or limit the number of permissible facilitating partners. The commenters suggested such a requirement would be logistically challenging and could result in fewer loans being made through indirect lending arrangements.

Discussion

The Board appreciates the detailed comments that were submitted regarding defining the phrase ''final underwriting decision.'' While the comments received in this area go beyond the scope of this rulemaking, the comments will be retained for consideration by the NCUA during future rulemakings relating to indirect lending.

The NCUA has long used the act of underwriting a loan as a feature to distinguish between transactions where a FICU makes a loan and transactions where a FICU purchases a loan.[16] In particular, in a 1997 legal opinion the NCUA explained:

FCUs may participate in indirect lending arrangements under the authority to make loans to members, 12 U.S.C. 107(5); 12 CFR 701.21, rather than the authority to purchase eligible obligations, 12 U.S.C. 107(13); 12 CFR 701.23, as long as two conditions are met. First, the FCU must make the final underwriting decision. That is, before the retailer and the member complete the loan or sales contract, the FCU must review the application and determine that the transaction conforms to its lending policies. This is because an FCU may not delegate its lending authority to a third party.[17]

By requiring the purchasing credit union to make the final underwriting decision in an indirect lending transaction, the NCUA ensures that the purchasing credit union is not relying on the due diligence of the loan seller who might otherwise have had a decreased interest in properly underwriting the loan knowing it would later be sold.

The NCUA explained further in the same 1997 legal opinion that an eligible organization may use an automated credit scoring system to make its final underwriting decision so long as the ''score'' obtained from the automated system is the sole determinant for granting credit. When an eligible organization establishes the qualifying criteria for the automated scoring system, it is effectively making an advance decision on a particular application.[18] So long as the party entering the borrower's application information does not exercise any judgment regarding that information, the score will be deemed to reflect the FCU's lending policies.[19]

Nothing in current § 701.23(b)(4)(iv) or § 701.21(c)(9)(i) of this the final rule, however, prohibits an indirect lending partner from having its own separate underwriting criteria, which it may use to screen borrowers *before* the credit union makes its final underwriting decision. An indirect lending partner may screen applicants for a loan using underwriting criteria from multiple lending partners; for example, criteria such as credit score, debt-to-income or debt service coverage ratios, collateral loan-to-value ratios, loan terms, and interest rates. In such cases, the determining factor is not what initial underwriting criteria the indirect lending partner may have used, but whether the credit union made the *final* underwriting decision. Thus, the indirect lending partner's initial underwriting criteria may differ from the credit union's underwriting criteria but the credit union must make the final underwriting decision to ensure the loan meets the credit union's underwriting criteria. The Board believes that what constitutes making a final underwriting decision may continue to evolve as credit unions implement artificial intelligence and machine learning based underwriting systems, as well as engage with fintech companies.

In indirect lending situations not involving automated credit scoring systems, a credit union may not wait until after the inception of the

[16] *See, e.g.,* NCUA Legal Op. 92–1203 (Jan. 5, 1993); NCUA Legal Op. 92–1203 (May 11, 1993); NCUA Legal Op. 97–0546 (Aug. 6, 1997), *available at https://ncua.gov/regulation-supervision/legal-opinions; and* § 701.23(b)(4)(iv).

[17] NCUA Legal Op. 97–0546.

[18] *See id.; see also* 63 FR 70997, 70997 (Dec. 23, 1998) (agreeing with commenters that credit or electronic scoring by a third-party vendor using the credit union's criteria is consistent with the FCU making the final underwriting decision).

[19] *See id.*

obligation to extend credit to review the loan application and determine whether the transaction conforms to its lending policies because the credit union then would not have made the final underwriting decision. A credit union should retain approval authority to engage in indirect lending (that is, employees or independent contractors working for the indirect lending partner cannot make the final underwriting decision on the credit union's behalf).[20] For large loans, complex loans, or both, a credit union may grant preliminary approval of the loan based on the indirect lending partner's representations to the credit union's loan officer that the loan conforms to the credit union's underwriting policies. The credit union must then review the loan application and determine that the loan, the application, and the transaction conform to its lending policies before the credit union grants its final approval and before the loan proceeds are sent to the indirect lending partner.

In all indirect lending transactions, credit unions should also retain the right to deny a loan should it discover the loan does not comply with the credit union's policies or standards upon receipt of the final paperwork. A credit union should document this ''right'' in the indirect lending agreement.

Should the Board define the phrase ''very soon after''? The Board asked in the proposal whether additional clarification was needed such as adding certain parameters around the meaning of ''very soon after'' for the assignment of the loan or contract to the credit union. Examples given were within 7 days of the borrower executing the loan or contract or assignment prior to the first loan payment.

Public Comments

Three commenters recommend not defining the phrase ''very soon after.'' One commenter suggested that using the language ''very soon after'' is appropriate and should not cause significant issues and that setting a specific period is not necessary. Another commenter acknowledged that timely assignment of a loan or sales contract should be a factor in ensuring a FICU or other eligible organization is prudently engaged in an indirect lending arrangement, but suggested the FICU or other eligible organization's adherence to relevant safety and soundness standards is far more determinative of any relevant risks that may accrue to the institution or the Share Insurance Fund. The commenter suggested further that a prescriptive loan or sales contract transfer timeline could undermine indirect lending partnerships the NCUA intends to promote. One commenter suggested that specifying a prescriptive period could be disruptive to the marketplace and put additional operational burdens on credit unions. The commenter also observed that each program between a fintech/flow partner and a credit union for a given loan category will have a cadence that is different (given purchase timing preferences and operational logistics) and that, if the timeframe set by regulation is too short, it could disrupt the credit union's pre-purchase settlement analysis and review process of the loan pool.

Six commenters recommend defining the phrase ''very soon after'' to avoid confusion. Four of the commenters recommended providing a specific number of days following the borrower's execution of the loan or contract. One commenter suggested the specific number be 5 or 7 business days but not a window that is excessive, such as 10 days. Another commenter suggested the number be 7 days. One commenter suggested the number be no more than 7 or 10 days. And one commenter suggested the number be 30 days or less.

Two commenters recommend defining ''very soon after'' more generally to mean prior to the due date of the member's first loan payment (other than any down payment). Two commenters also recommended clarifying that the assignment can involve more than one party, such as if a fintech indirect lending partner uses one or more agents or subsidiaries to facilitate its operations prior to the loan being delivered to the credit union. One of those commenters suggested the changes discussed in this paragraph could be made to the rule by adding a new paragraph to proposed § 701.21(c)(9)(i) that would provide as follows:

> The requirement that the loan be assigned to the purchaser very soon after the inception of the obligation to extend credit may be satisfied regardless of whether the assignment process undergoes multiple functional steps, with multiple entities, and including where the assignment is processed as part of a batch of loans, on a cyclical cadence or otherwise, so long as assignment occurs before the first loan payment following any down payment.

Finally, one commenter suggested that if ''very soon after'' is defined, the definition should ensure that appropriate flexibility is given to address the various timeframes required to appropriately assign loans backed by different collateral types and to ensure a more forward-looking regulation that can help ensure future evolution as loan and lease products continue to change.

Discussion

The Board appreciates the detailed comments that were submitted regarding defining the phrase ''very soon after.'' Defining the phrase in this final rule, however, would go beyond the scope of the proposal. Accordingly, the comments received on this issue have been shared with the Board, reviewed, and will be retained for consideration by the NCUA in future rulemakings relating to indirect lending.

Several commenters expressed confusion regarding the NCUA's use of the term ''very soon after'' in the regulation. The term very soon after has been used but not defined in the NCUA's indirect lending regulation since 1998.[21] The period that satisfies the ''very soon after'' [22] element depends on the nature of the loan and the practical realities of assigning certain kinds of loans in the current marketplace and in accordance with prevailing industry standards.[23] ''Very soon after'' is determined on a case-by-case basis by loan type and in accordance with commercial reasonableness.[24] The NCUA's longstanding position is that the sooner the assignment is made the more likely the point-of-sale retailer will be viewed as an indirect lender and not the originating lender.[25] Historically, NCUA examination staff have generally used 7 days as a baseline for gauging whether a transaction meets the ''very soon after'' timeframe, but this has not been codified as a requirement. The longer the time between formation of the contract and assignment, the more likely the arrangement will be viewed as the purchase of a third-party loan rather than the making of a loan through indirect channels.[26] The NCUA also

[20] NCUA Legal Op. 97–0546.

[21] 63 FR 70997 (Dec. 23, 1998).

[22] The preamble to the 1998 proposal to amend the eligible obligations rule requested public comment on whether NCUA should specify a certain number of days as constituting ''very soon.'' 63 FR 41976, 41977 (Aug. 6, 1998). After considering the comments, however, the NCUA Board determined not to specifically define it because the Board wanted to provide FCUs with flexibility under various circumstances. The NCUA Board also clarified that assignment of the loan means acceptance of the loan and not necessarily the physical receipt of the loan documentation, recognizing that acceptance and payment are often done electronically. However, physical receipt of the loan documents by the FCU should occur within a reasonable time following acceptance of the loan. 63 FR 70997, 70998 (Dec. 23, 1998).

[23] NCUA Legal Op. 15–0813 (Aug. 10, 2015).

[24] *Id.*

[25] *Id.*

[26] 63 FR 41976, 41977 (Aug. 6, 1998).

notes that the technology used in many indirect lending relationships today allows for an almost instantaneous assignment of loans.

In addition, two commenters recommended defining ''very soon after'' in a way that clarifies that the requirement for a loan to be assigned to the purchaser very soon after the inception of the obligation to extend credit may be satisfied regardless of whether the assignment process undergoes multiple functional steps, with multiple entities, so long as the other requirements of 701.21(c)(9) are met and those steps occur before the loan is assigned. The Board appreciates this recommendation, but believes this clarification is unnecessary because the plain language of both current § 701.23(b)(4)(iv) and § 701.21(c)(9)(i) of the final rule are clear. Neither paragraph imposes a limitation on the number of functional steps or entities that are involved in the assignment process, provided the loan is assigned very soon after the inception of the obligation to extend credit and all other applicable requirements are met.

Should the Board propose a separate indirect lending rule? The Board asked in the proposal whether the NCUA should establish an indirect lending rule. And if so, the Board asked what it should consider in any future indirect lending rulemaking. The Board also asked if a credit union should be considered the originating lender in cases where an intermediary is added to a loan transaction between the initial party extending credit and a credit union, including a third party facilitating the loan transaction. The NCUA received several inquiries from the credit union system related to CUSOs that work with other lenders to extend credit. The CUSOs in those cases then either receive an immediate assignment of the loans and/or act as a facilitator in immediately assigning loans further to credit unions, where the loans meet the credit unions' underwriting criteria.

Public Comments

Two commenters responded in the negative to the NCUA's question about whether the agency should establish a separate indirect lending rule. One of those commenters recommended maintaining a principles-based approach in this area and suggested such an approach requires no separate rule. The other commenter suggested there are numerous situations where a credit union would use a third party to assist in the origination of loans and a separate indirect lending rule would not change the overall impact of being considered the originating lender. One commenter recommended not undertaking a separate indirect lending rulemaking until the agency is able to evaluate and understand how credit unions and other credit union industry stakeholders react to any final rule the NCUA adopts related to this proposal. Finally, three commenters recommended a separate indirect lending rulemaking to provide greater clarity and encourage greater participation in this area. One of those commenters suggested further that a new indirect lending rulemaking could amplify participation and provide credit unions, financial service providers, and CUSOs greater opportunity to collaborate and impact member retention and growth.

Discussion

The Board appreciates the detailed comments that were submitted regarding proposing a separate indirect lending rule. While the comments received in this area go beyond the scope of this rulemaking, the comments will be retained for consideration by the NCUA during future rulemakings relating to indirect lending.

New § 701.21(c)(9)(ii) Indirect Lending

New § 701.21(c)(9)(ii), consistent with current § 701.23(b)(4)(iv), clarifies the difference between loans made pursuant to indirect lending arrangements under § 701.21 and loans purchased under § 701.23. Current § 701.23(b)(4)(iv) excludes loans acquired pursuant to certain indirect lending arrangements from the 5-percent limit under current paragraph (b)(4). Paragraph (b)(4)(iv) provides that an *indirect lending* or indirect leasing arrangement that *is classified as a loan and not the purchase* of an eligible obligation *because* the FCU makes the final underwriting decision, and the sales or lease contract is assigned to the FCU very soon after it is signed by the member and the dealer or leasing company, is excluded from calculating the 5-percent limit.[27] As previously mentioned, current § 701.23(b)(4)(iv) is removed by this final rule. Accordingly, new § 701.21(c)(9)(ii) provides that a loan acquired pursuant to an indirect lending arrangement, and that meets the requirements of § 701.21, is classified as a loan and not the purchase of a loan for purposes of the NCUA's regulations, which are codified in chapter VII of title 12 of the Code of Federal Regulations.

Public Comments

One commenter suggested clarifying in proposed § 701.21(c)(9)(ii) that for a loan to be classified as an ''indirect loan,'' it must meet the requirements of § 701.21 *and the FCU Act*.[28]

Discussion

The Board believes the clarification requested above is unnecessary. The requirement that FICUs also comply with the Act is already clear under the NCUA's regulations given the authority for most of the provisions in the NCUA's regulations are derived directly from the Act itself. Moreover, adding such a statement in one provision within the NCUA's regulations, but not everywhere, could give the false impression that FICUs do not have to comply with the Act's requirements in places where the NCUA's regulations do not specifically require it. Accordingly, the final rule adopts the language proposed without change for the reasons set forth in the notice of proposed rulemaking.

New § 701.21(c)(9)(iii) Indirect Leasing

New § 701.21(c)(9)(iii), consistent with current §§ 701.23(b)(4)(iv) and 714.9, clarifies the difference between leases made pursuant to indirect leasing arrangements under § 714.2(b)[29] and leases purchased under § 701.23. Current § 701.23(b)(4)(iv) excludes leases acquired pursuant to certain indirect leasing arrangements from the 5-percent limit under current paragraph (b)(4). Paragraph (b)(4)(iv) provides that an indirect lending or *indirect leasing arrangement* that *is classified as a loan and not the purchase* of an eligible obligation *because* the FCU makes the

[27] (emphasis added); *see also, e.g.,* NCUA Legal Op. 97–0546 (Aug. 6, 1997) (providing in relevant part as follows: ''FCUs may participate in indirect lending arrangements under the authority to make loans to members, 12 U.S.C. 107(5); 12 CFR701.21, rather than the authority to purchase eligible obligations, 12 U.S.C. 107(13); 12 CFR 701.23, as long as two conditions are met. First, the FCU must make the final underwriting decision. That is, before the retailer and the member complete the loan or sales contract, the FCU must review the application and determine that the transaction conforms to its lending policies. This is because an FCU may not delegate its lending authority to a third party. Second, the retailer must assign the loan or sales contract to the FCU very soon after it is completed. Assignment close in time to the making of the loan allows the retailer to function as the facilitator of the loan while the FCU remains the true lender. As the time between completion and assignment of the loan lengthens, the FCU's payment to the retailer becomes the purchase of the loan rather than part of the processing of the loan.'').

[28] (emphasis added).

[29] Section 714.2(b) (Providing: ''[An FCU] may engage in indirect leasing. In indirect leasing, a third party leases property to [the FCU's] member and [the FCU] then purchases that lease from the third party for the purpose of leasing the property to [the FCU's] member. [The FCU does] not have to purchase the leased property if [it complies] with the requirements of § 714.3.'').

final underwriting decision, and the sales or lease contract is assigned to the FCU very soon after it is signed by the member and the dealer or leasing company, is excluded in calculating the 5-percent limitation.[30] Similarly, current § 714.9 provides that an FCU's indirect leasing arrangements are not subject to the eligible obligation limit if they satisfy the provisions of § 701.23(b)(3)(iv) that require that an FCU make the final underwriting decision and that the lease contract is assigned to the FCU very soon after it is signed by the member and the dealer or leasing company. Accordingly, new § 701.21(c)(9)(iii) provides that a lease acquired pursuant to an indirect leasing arrangement, and that meets the requirements of part 714 of the NCUA's regulations, is classified as a lease and not the purchase of a lease for purposes of the NCUA's regulations, which are codified in chapter VII of title 12 of the Code of Federal Regulations.

Section 701.22 Loan Participations

As discussed in more detail below, the final rule makes clarifying amendments to § 701.22. These changes are primarily intended to clarify FCUs' authority to purchase loan participations and the requirements applicable to the purchase of loan participations by federally insured, state-chartered credit unions (FISCUs).

Public Comments

Two commenters asked the NCUA to do more to reduce confusion regarding whether §§ 701.22 or 701.23 applies to a particular transaction. One of those commenters recommended that the NCUA clarify in the loan participation and eligible obligation rules that purchasing FICUs have discretion to classify a partial interest in a loan under either Section 701.22 or 701.23 when the terms and conditions of the purchase meet the requirements of both rules.

Discussion

The specific clarifications requested above would expand the authorities proposed beyond the scope of the proposed rule. As outlined in the notice of proposed rulemaking, one purpose of the amendments was to clarify ambiguities related to distinguishing between loan participations and eligible obligations. To facilitate this, the proposed definition of eligible obligation was revised to provide that an eligible obligation is a whole loan or part of a loan (other than a note held by a liquidating credit union) that does not meet the definition of a loan participation under § 701.22(a). The Board believes the rule clarifies FICUs' authority to purchase partial loans under § 701.23 given that the amended definition of ''eligible obligation'' expressly excludes the purchase of partial loans that meet the definition of a ''loan participation,'' as that term is defined under § 701.22(a). An FCU is authorized under §§ 701.22 and 701.23 to purchase a loan or part of a loan only if it meets the definition of *one* of the following: (1) a ''loan participation,'' (2) an ''eligible obligation,'' or (3) a ''note of a liquidating credit union.'' [31] For FCUs, a loan or partial loan purchased cannot meet the definitions of both an eligible obligation and a loan participation. Amending the final rule to provide otherwise would go beyond the scope of this rulemaking. For FISCUs, partial loan purchases that meet the definition of a ''loan participation'' must comply with the requirements of § 741.225 and the applicable requirements of § 701.22. Other types of loans purchased by FISCUs must meet the requirements of both state law and part 741 of the NCUA's regulations. Accordingly, the Board adopts the language originally proposed in § 701.22 without change for the reasons set forth in the notice of proposed rulemaking.

The purchase of part of a loan under § 701.23 and the purchase of a loan participation under § 701.22 are treated as separate and distinct transactions under the final rule. The purchase of part of a loan by an FCU, provided it meets the definition of an eligible obligation, is subject to the requirements and conditions of § 701.23. The purchase of a loan participation, as defined under § 701.22, by a FICU is subject to the requirements and conditions under the NCUA's loan participation rule. Credit unions must properly identify each transaction as either the purchase of an eligible obligation or the purchase of a loan participation at the time of purchase.

701.22 Introductory Paragraph

The introductory paragraph to current § 701.22 sets forth the scope and limitations of the section. The NCUA Board added the introductory paragraph to § 701.22 as part of a final rule it approved in 2013 (2013 Final Rule).[32] The introductory paragraph was intended to clarify several issues related to the scope and applicability of § 701.22. In particular, the 2013 Final Rule is explained as follows in the remainder of this paragraph. The introductory text clarified the scope of the rule and helped distinguish a loan participation under § 701.22 from an eligible obligation under § 701.23. Further, it clarified that the rule applies to a consumer FICU's purchase of a loan participation where the borrower is not a member of that credit union. The introductory text goes on to state that generally, an FCU's purchase, in whole or in part, of its member's loan is covered by NCUA's eligible obligations rule at § 701.23. Additionally, by a cross-reference to Part 741 of NCUA's regulations, the rule also was made applicable to consumer FISCUs. The Board noted that corporate credit unions are subject to the loan participation requirements set forth in Part 704 and, therefore, are not subject to § 701.22 of NCUA's regulations.[33]

The introductory paragraph to current § 701.22 has seven separate substantive provisions. First, the paragraph provides that this section applies only to loan participations as defined in the section. Second, it provides that the section does not apply to the purchase of an investment interest in a pool of loans. Third, it provides that the section establishes the requirements a FICU must satisfy to purchase a loan participation. Fourth, it provides that the section applies to a FICU's purchase of a loan participation only where the borrower is not a member of the purchasing FICU and where a continuing contractual obligation between the seller and purchaser is contemplated. Fifth, it provides that § 701.23 generally applies to an FCU's purchase of all or part of a loan made to one of its members. Sixth, it provides that § 741.225 requires FISCUs to comply with the requirements of § 701.22. Section 741.225 also provides that FISCUs are exempt from the borrower membership requirement in current § 701.22(b)(4). Seventh, the

[30] *Id.* (emphasis added); *see also* 12 CFR 714.2(b) & 714.9; *and* NCUA Legal Op. 00–0811 (Nov. 2000) (providing in part as follows: ''NCUA's leasing regulation recognizes that FCUs may engage in the leasing of personal property and does not distinguish between consumer and business leasing. 12 CFR part 714. The authority of FCUs to engage in secured lending is the basis for their authority to engage in leasing. Therefore, FCU leasing generally must comply with the statutory and regulatory requirements applicable to secured lending, including the member business loan rule. 12 CFR part 723. Our leasing regulation, however, notes exceptions from certain provisions of the lending rules that are not pertinent to leasing; for example, the interest rate ceilings. 12 CFR 714.10, 701.21(c)(7). In a lease, the lessee's payments are periodic rental payments, not the repayment of principal and interest as in a loan.'').

[31] Note, § 741.8 requires prior approval for the purchase of certain types of loans and partial loans authorized under § 701.23(b).

[32] 78 FR 37946 (June 25, 2013).

[33] *Id.* at 37948.

paragraph provides that the section does not apply to corporate credit unions as defined in part 704.

In the 2013 Final Rule, the Board added a similar introductory paragraph to § 701.23 regarding the purchase, sale, and pledge of eligible obligations to clarify the scope of that section and distinguish loan participations from eligible obligations. The provisions included in that introductory paragraph are discussed in detail later in the part of the preamble about the introductory paragraph to § 701.23.

Since adopting the prefatory language in both sections, the NCUA has received inquiries from NCUA examiners, FICUs, fintech companies, and other parties who have expressed confusion about how to interpret many of these provisions. This confusion has led to inconsistent reporting of loan interests by FICUs and uncertainty about which of the two sections, § 701.22 or § 701.23, to apply to certain transactions, particularly innovative programs that have been designed by FICUs after 2013. In addition, the Board is concerned that continued confusion about lines of authority in this area could discourage FICUs from entering into certain safe, sound, and compliant loan participation, purchase, or sale agreements that are within their statutory authority.

One significant issue with the introductory paragraph to current § 701.22 that parties have raised is when a FICU's partial loan purchase is subject to that section. Parties have cited the continuing contractual obligation qualifier as a source of confusion. The fourth sentence in the introductory paragraph provides that the section applies only to a FICU's purchase of a loan participation where the borrower is not a member of that credit union *and where a continuing contractual obligation between the seller and purchaser is contemplated.*[34] The fifth sentence in the paragraph provides further that, generally, an FCU's purchase of all or part of a loan made to one of its own members, subject to a limited exception for certain well-capitalized FCUs in § 701.23(b)(2), *where no continuing contractual obligation between the seller and purchaser is contemplated,* is governed by § 701.23 of this part.[35] Similarly, the introductory paragraph to § 701.23 provides that § 701.23 governs an FCU's purchase, sale, or pledge of all or part of a loan to one of its own members, subject to a limited exception for certain well-capitalized FCUs, *where no continuing contractual obligation between the seller and purchaser is contemplated.*[36]

In practice, however, purchase agreements, regardless of whether the transactions involve the purchase of an eligible obligation or a loan participation, frequently contain some form of continuing contractual obligation between the buyer and the seller, including representations and warranties regarding the loans and loan repurchase agreements, servicing agreements, and other similar types of ongoing obligations set forth under the agreements. The Board believes the continuing contractual obligation clauses in the fourth and fifth sentences in the introductory paragraphs to current § 701.22 are unnecessary when determining whether a loan purchase agreement qualifies as either a loan participation or an eligible obligation.

In addition to the concerns explained above, the clause *where the borrower is not a member of that credit union* in the first part of the fourth sentence of the introductory paragraph conflicts with another provision in § 701.22. This language could be misinterpreted to suggest that § 701.22 does not apply to a partial loan purchase where the borrower is a member of the purchasing credit union, even when the transaction otherwise meets the definition of a loan participation under § 701.22. This clause directly conflicts with the more specific requirement in § 701.22(b)(4), which provides that the borrower must become a member of one of the participating credit unions before the purchasing FICU purchases a participation interest in the loan. The NCUA has long interpreted the more specific language in paragraph (b)(4) as controlling and has applied the requirements of § 701.22 to partial loan purchases where the purchase meets the definition of a loan participation and the borrower is a member of the purchasing FICU.

Accordingly, the NCUA believes the removal of this clause will serve to clarify and reduce confusion when § 701.22 applies to certain transactions. As part of the 2022 proposed rule, the Board requested comment on whether deleting the fourth and fifth sentences in the introductory paragraph to current § 701.22 would clarify when the section applies to certain transactions.

The NCUA recognizes that whether the purchase of a partial loan is a loan participation under § 701.22 or a loan purchase under § 701.23 may still be uncertain in some instances even if these sentences are removed. The NCUA believes, however, that other provisions in § 701.22, such as the definition of loan participation and the conditions outlined in paragraph (b), make clear which transactions are subject to the requirements of § 701.22.

As discussed in more detail in the part of the preamble below regarding § 701.23, the Board is also deleting the continuing contractual obligations sentence in current § 701.23. The Board intends the deletion to work in conjunction with the changes to the introductory paragraph to current § 701.22.

The Board proposed no other changes to the introductory paragraph to current § 701.22. Another provision in the introductory paragraph that is often misread, however, is the sentence providing that § 701.22 does not apply to the *purchase of an investment interest in* a pool of loans. That sentence is intended to clarify that the purchase of such investment interests, to the extent they are permitted, are governed by part 703 of the NCUA's regulations for FCUs (and under part 741 of the NCUA's regulations and as authorized under state law for FISCUs) and not § 701.22. This continues to be the case under this proposal. The NCUA notes further that this qualification to the section makes clear that § 701.22 neither applies to nor authorizes FICU investments in either asset-backed securities or the purchase of other similar investment interests in pools of loans.[37] The requirements of § 701.22 apply to each individual loan in which a FICU purchases a loan participation interest.[38]

The final rule amends the introductory text of § 701.22 to provide the following: First, § 701.22 applies only to loan participations as defined in paragraph (a). Second, § 701.22 does not apply to the purchase of an investment interest in a pool of loans. Third, § 701.22 establishes the requirements a FICU must satisfy to purchase a participation in a loan. Fourth, FISCUs are required by § 741.225 to comply with the loan participation requirements of the section. Fifth, § 701.22 does not apply to corporate credit unions, as that term is defined in § 704.2.

Public Comments

Four commenters stated generally that they supported the proposed changes to the introductory paragraph because the changes will reduce confusion and better enable credit unions to evaluate

[34] Emphasis added.

[35] Emphasis added.

[36] Emphasis added.

[37] Emphasis added.

[38] *See, e.g.,* NCUA Legal Op. 18–0133 (March 2018), *available at https://www.ncua.gov/regulation-supervision/legal-opinions/2018/loan-participations.*

new loan participation opportunities without reducing credit unions' loan participation authorities or increasing risks to individual credit unions or the Share Insurance Fund. Four commenters stated that they supported deleting the ''continuing contractual obligation'' clauses in the introductory paragraph. In addition, one commenter recommended removing the sentence in the introductory paragraph regarding the restriction of corporate credit unions purchasing loan participations from eligible organizations. The commenter explained that this issue is covered in section 704 appendix B, which requires part IV authority be granted by the NCUA for corporates to purchase participations. The commenter recommended further that corporate credit unions be allowed to purchase loan participations from FICUs by removing this sentence and eliminating the Part IV authority requiring separate application and approval for any purchase authority. The commenter suggested that corporate credit unions act as a liquidity provider for credit unions and being allowed to purchase loan participations with fewer restrictions would provide much needed liquidity and improve the overall safety and soundness for the credit union system.

Discussion

Commenters generally supported the proposed changes to the introductory paragraph to § 701.22, with one commenter suggesting additional changes that go beyond the scope of the proposed rule. While the Board appreciates that comment, the NCUA did not propose allowing corporate credit unions to purchase loan participations from FICUs by removing the last sentence of the current introductory paragraph and eliminating the Part IV authority requiring separate application and approval for any purchase authority. The NCUA will retain the comment, however, for consideration as part of future rulemakings related to loan participations or corporate credit union purchase authorities. Given the NCUA received no comments in opposition to the proposed changes, the Board is adopting the changes in this final rule as proposed for the reasons set forth in the notice of proposed rulemaking.

Defining the term ''investment interest in a pool of loans''? The Board asked in the proposal whether it should define the term ''an investment in a pool of loans'' in a future rulemaking. And, if so, the Board asked how the term should be defined and why.

Public Comments

Three commenters responded in the affirmative to the NCUA's question. One commenter recommended clarifying that the restrictions in § 701.22 (containing the memberization requirement for FCUs) do not apply to an investment in a pool of loans. Another commenter suggested the phrase is confusing as currently used and does not provide information regarding what options credit unions may have to invest in these types of transactions. The commenter asked, as an example, would this include the ability to invest in a ''pool'' or ''fund'' of subordinated debt loans made to credit unions? In the commenter's opinion, credit unions should be allowed to purchase a percentage of a pool of loans that credit unions are allowed to originate.

Discussion

The Board appreciates the comments received and will retain them for consideration as part of future rulemaking efforts related to this area of the NCUA's regulations.

Section 701.22(a)

The final rule adds a second sentence to the current definition of ''originating lender'' in § 701.22(a) to codify and further clarify a 2015 NCUA legal opinion (2015 Opinion) regarding loan participations in indirect loans.[39] The NCUA's 2013 Final Rule amended the loan participation regulation to, among other things, clarify that the originating lender must participate in the loan throughout the life of the loan.[40] In the 2013 Final Rule, the NCUA explained that this requirement derives from sections 107(5) and (5)(E) [41] of the Act.[42] Section 107(5) provides in relevant part that an FCU shall have the *power to participate with* other credit unions, credit union organizations, or financial organizations in making loans to credit union members.[43] Section 107(5)(E) requires further that participation loans *with* other credit unions, credit union organizations, or financial organizations shall be in accordance with written policies of the FCU's board of directors, provided that an FCU that *originates* a loan for which participation arrangements are made in accordance with this subsection *shall retain an interest* of at least 10 per centum of the face amount of the loan.[44] While the statutory requirements of section 107(5)(E) primarily pertain to FCUs involved in loan participations, the Board chose, for safety and soundness reasons, to extend most of the requirements in § 701.22 to cover all FICUs as part of the 2013 Final Rule.[45]

In the 2013 Final Rule, the Board noted two specific safety and soundness concerns as reasons for adopting the current definition of ''originating lender,'' explaining in relevant part as follows:

> The 2013 Final Rule requires an originating lender to remain part of the participation arrangement and to retain a continuing interest in the loan in order to be a true participant. Otherwise, the transaction is not a loan participation but more akin to the sale of an eligible obligation. As the Board noted in 1991, permitting the sale of participation interests in eligible obligations will *blur the distinction* between loan participations and loan purchases and sales, arguably

[39] NCUA Legal Op. 15–0813 (Aug. 10, 2015) *available at https://www.ncua.gov/regulation-supervision/legal-opinions/2015/loan-participations-indirect-loans-originating-lenders.*

[40] 78 FR 37946, 37949 (June 25, 2013) (providing verbatim that, ''[t]he proposed rule revised the definitions of 'originating lender' and 'loan participation' to clarify that the originating lender must participate in the loan throughout the life of the loan.''); *see also* § 701.22(a) (providing in relevant part that, *loan participation* means a loan where one or more eligible organizations participate pursuant to a written agreement *with the originating lender,* and the written agreement requires the originating lender's continuing participation throughout the life of the loan. (emphasis added)).

[41] § 1757(5) and (5)(E).

[42] *See* 76 FR 79548, 79549 (Dec. 22, 2011); *and* 78 FR 37946, 37949 (June 25, 2013) (providing that the requirement that credit unions only participate with the originating lender derives from the FCU Act's requirement for originating FCUs to retain at least a 10 percent interest in the face amount of all loans they participate out. Moreover, the Board interprets the authority in the FCU Act for credit unions to participate in loans ''with'' other lenders to contemplate a shared, continuing lending arrangement. Simply put, the rule requires an originating lender to remain part of the participation arrangement and to retain a continuing interest in the loan in order to be a true participant. Otherwise, the transaction is not a loan participation but more akin to the sale of an eligible obligation.).

[43] 12 U.S.C. 1757(5) (emphasis added).

[44] Section 1757(5)(E) (emphasis added).

[45] *See* 76 FR 79548, 79548 (Dec. 22, 2011) (Explaining in part that loan participations [. . .] create more systemic risk to the share insurance fund (NCUSIF) due to the resulting interconnection between participants. For example, large volumes of participated loans in the system tied to a single originator, borrower, or industry or serviced by a single entity have the potential to impact multiple credit unions if a problem arises. Additionally, as both federal credit unions (FCUs) and federally insured, state-chartered credit unions (FISCUs) actively engage in loan participations, it is important to the safety and soundness of the NCUSIF that all federally insured credit unions (FICUs) adhere to the same minimum standards for engaging in loan participations. The Board believes such standards are necessary to ensure the NCUSIF consistently recognizes and accounts for the risks associated with the purchase of loan participations. Finally, during examinations and other FICU contacts, the agency has encountered confusion concerning the application of the current loan participation rule regarding the entities and transactions subject to the rule.); *and* 78 FR 37946, 37947 & 37955 (June 25, 2013); *and* § 741.225.

circumventing the purpose of the loan participation and eligible obligations rules. Additionally, the Board believes the continued participation of the lender that initially originated the loan is integral to a safe and sound participation arrangement. In 1991, the Board expressed its concern that a lender may have a *decreased interest in properly underwriting a loan* if they know they can later reduce their risk by selling participation interests in it. The requirement for the originating lender's continued participation in a loan participation arrangement is intended to address this safety and soundness concern.[46]

As explained in more detail below, these concerns are fully accounted for under the 2015 Opinion and this rulemaking by limiting the interpretation to indirect loans and requiring that such loans meet the same general requirements applicable to indirect loans made by FCUs under current § 701.23(b)(4)(iv).

The 2013 Final Rule responded to concerns raised by commenters regarding the proposed definition of ''originating lender'' and its application in situations where a CUSO underwrites and processes a loan, but the FICU funds the loan. In response to this feedback the Board provided the following explanation:

These commenters observed that a CUSO often serves as an originator in name only and, thus, is not the most appropriate party to regard as the originating lender for the purposes of the rule. For example, loans may be *underwritten* and processed by a CUSO, but funded by its owner credit union. The Board acknowledged that this CUSO model is not uncommon within the industry and permissible under § 712.5. For purposes of this final rule, it was the Board's intent that the originating lender is the entity with which the borrower initially or originally contracts for the loan.[47]

As noted, the Board's responses to commenters in the 2013 Final Rule regarding the definition of originating lender were limited to situations in which a FICU purchased a loan from a CUSO that had underwritten the loan. The Board did not discuss the application of the definition of originating lender to CUSOs or other entities in the context of indirect lending arrangements in which a purchasing FICU underwrites the loan and makes the final underwriting decision. Accordingly, the application of the definition of originating lender to CUSOs or other entities in the context of indirect lending arrangements was left unaddressed in the 2013 Final Rule and open to later interpretation by the NCUA, which is what it did 2 years later in the 2015 Opinion discussed in more detail in the following paragraphs.

The NCUA has long used the act of underwriting a loan as a feature to distinguish between transactions where a FICU makes a loan and transactions where a FICU purchases a loan.[48] In particular, in a 1997 legal opinion the NCUA explained as follows:

FCUs may participate in indirect lending arrangements under the authority to *make loans to members,* 12 U.S.C. 107(5); 12 CFR 701.21, rather than the authority to purchase eligible obligations, 12 U.S.C. 107(13); 12 CFR 701.23, as long as two conditions are met. *First, the FCU must make the final underwriting decision.* That is, before the retailer and the member complete the loan or sales contract, the FCU must review the application and determine that the transaction conforms to its lending policies. This is because an FCU may not delegate its lending authority to a third party. Second, the retailer must assign the loan or sales contract to the FCU very soon after it is completed. Assignment close in time to the making of the loan allows the retailer to function as the facilitator of the loan while the FCU remains the true lender. As the time between completion and assignment of the loan lengthens, the FCU's payment to the retailer becomes the purchase of the loan rather than part of the processing of the loan.[49]

By requiring the purchasing credit union to make the final underwriting decision in an indirect lending transaction, the NCUA ensured that the purchasing credit union was not relying on the due diligence of the loan seller who might otherwise have had a decreased interest in properly underwriting the loan knowing that it would later be sold. Moreover, under the NCUA's loan participation regulation, the originating lender is required to retain at least a 5-percent interest in any participation for the life of the loan.[50] Accordingly, where an eligible organization makes a loan through an indirect lending arrangement there is no greater risk of incentives for lax or improper underwriting for purposes of § 701.22 than if the eligible organization had processed and funded the loan itself.

Furthermore, as discussed in the 1997 legal opinion quoted above, the NCUA has long distinguished between indirect loans, made under section 107(5)[51] of the FCU Act and § 701.21 of the NCUA's regulations, and eligible obligations purchased under section 107(13)[52] of the FCU Act and § 701.23 of the NCUA's regulations.[53] For over 25 years the NCUA has treated indirect loans—as defined under current § 701.23(b)(4)(iv)—made by a credit union to be separate and distinct from eligible obligations. Accordingly, while permitting the sale of participation interests in eligible obligations might blur the distinction between loan participations and loan purchases and sales and circumvent the purpose of the loan participation and eligible obligation rules, allowing the sale of participation interests in indirect loans presents no such risk.

Working within the regulatory and interpretative history discussed above, the NCUA determined in the 2015 Opinion that an ''eligible organization''[54] may be considered the ''originating lender'' for purposes of § 701.22 where the eligible organization generated the loan through an ''*indirect lending arrangement*''[55] with a retailer

[46] 78 FR 37946, 37948 & 37949 (emphasis added) (providing also that in granting [loan participation authority to FCUs], Congress expressed its intent to enhance the ability of FCUs to serve their members' loan demands. Congress also expressed, however, that originating FCUs must maintain discipline in the origination process. [. . .T]he loan participation authority must not be so broad that loan participations may be originated from any source. [. . .]); 56 FR 15034, 15034–15035 (April 15, 1991) (providing that NCUA has interpreted the term ''participation loan'' to mean arrangements made prior to disbursements of the loan proceeds. In the preamble to the proposed rule, the Board stated that this interpretation may be too restrictive and proposed deleting it. [. . .] One commenter noted that this change will blur the distinction between loan participations and loan purchases and sales. [. . .] There are two basic safety and soundness concerns with the proposed change. FCUs may have a decreased interest in properly underwriting a loan if they know they can later reduce their risk by selling participation interests in it. Alternatively, FCUs interested in obtaining a participation after the loan is made may not properly investigate the loan and may instead rely on the original participants to have properly underwritten the loan. FCUs may jump in without a proper due diligence review. [. . .] Accordingly, the NCUA Board declines to adopt the proposed change and will continue to require a written commitment to participate in a loan precede final disbursement.); *see also* 68 FR 39866, 39867 (July 3, 2003); 68 FR 75110 (Dec. 30, 2003); *and* H.R. Rep. No. 95–23, at 12 (1977), *reprinted in* 1977 U.S.C.C.A.N. 115.

[47] 78 FR 37949–37950 (emphasis added).

[48] *See, e.g.,* NCUA Legal Op. 92–1203 (Jan. 5, 1993); NCUA Legal Op. 92–1203 (May 11, 1993); NCUA Legal Op. 97–0546 (Aug. 6, 1997), *available at https://ncua.gov/regulation-supervision/legal-opinions*; *and* § 701.23(b)(4)(iv).

[49] NCUA Legal Op. 97–0546 (emphasis added).

[50] § 701.22(d)(4)(ii) (''The interest that the originating lender will retain in the loan to be participated. If the originating lender is a federal credit union, the retained interest must be at least 10 percent of the outstanding balance of the loan through the life of the loan. If the originating lender is any other type of eligible organization, the retained interest must be at least 5 percent of the outstanding balance of the loan through the life of the loan, unless a higher percentage is required under state law.'').

[51] § 1757(5).

[52] § 1757(13).

[53] NCUA Legal Op. 97–0546.

[54] *Id.* (providing in relevant part as follows: ''*Eligible organization* means a credit union, credit union organization, or financial organization.'').

[55] *See* § 701.23(b)(4)(iv) (''An *indirect lending* or indirect leasing *arrangement* that is classified as a loan and not the purchase of an eligible obligation

such as an auto dealer.[56] Current § 701.22(a) defines the term ''originating lender'' as ''the participant with which the borrower initially or originally contracts for a loan and who, thereafter or concurrently with the funding of the loan, sells participations to other lenders.'' [57] The 2015 Opinion explained that, in indirect lending arrangements with a retailer such as an auto dealer, the retailer is acting as an agent of the eligible organization and is simply performing as an administrative functionary processing a loan for the eligible organization, and the retailer's activities are part and parcel of, and an extension of, the eligible organization's lending operations. In this context, the 2015 Opinion concluded that the retailer is not acting as a separate lender generating loans for itself and then selling those loans to an eligible organization. Rather, the retailer is a facilitator that is part of the eligible organization's loan processing mechanism, and the eligible organization is the *de facto* originating lender and, therefore, the originating lender for purposes of the NCUA's loan participation rule.

The 2015 Opinion explained further that a loan purchased by an eligible organization must satisfy two conditions to be classified as an ''indirect loan'' and not the purchase of a loan.[58] First, the eligible organization must make the final underwriting decision regarding the loan. In other words, a loan must be underwritten by the purchasing eligible organization before completion of the loan or sales contract.[59] An eligible organization may use an automated credit scoring system to make its final underwriting decision as long as the ''score'' obtained from the automated system is the sole determinant for granting credit.[60] When an eligible organization establishes the qualifying criteria for the automated scoring system, it is effectively making an advance decision on a particular application.[61] So long as the party entering the borrower's application information does not exercise any judgment regarding that information, the score will be deemed to reflect the FCU's lending policies.[62]

Second, the sales contract must be assigned to the eligible organization *very soon after* it is signed by the borrower and the dealer.[63] As explained in a separate NCUA legal opinion, assignment close in time to the making of the loan allows the retailer to function as the facilitator of the loan while the eligible organization remains the true lender.[64] The length of time that satisfies ''very soon after'' depends on the nature of the loan and the practical realities of assigning certain kinds of loans in the current marketplace and in accordance with prevailing industry standards.[65] While ''very soon after'' is generally determined on a case-by-case basis by loan type and in accordance with commercial reasonableness, the longer the time between the formation of the contract and its assignment, the more likely the program will be viewed as involving the purchase of an eligible obligation rather than the making of a loan.[66]

The Board believes that codifying the 2015 Opinion will clarify the loan participations rule and facilitate further growth in credit unions' purchase and sale of indirect loan participations. Industry data shows significant growth in credit unions engaging in indirect lending programs, which have become an important channel for credit unions to extend services to their members and provide a viable source of income to support their growth.

Since 2015, FICUs have experienced large growth in indirect lending programs as reflected in Table 1. The $336.8 billion outstanding balance of indirect loans as of 2022 more than doubled the 2015 year-end loan balance.[67]

During the past 7 years, FICUs' indirect lending activities had double-digit increases (ranging from 14 percent to 21 percent) year over year between 2016 and 2018, and a low single-digit increase in 2019 and 2020.[68] The speed of growth went back to double digits in 2021 and 2022, with FICUs reporting an aggregate 30.93 percent increase during 2022.[69] The share of indirect loans outstanding in FICUs' total loan portfolio increased from 17.35 percent in 2015 to 21.22 percent in 2018, and reached 22.36 percent as of 2022.[70]

Furthermore, between 2015 and 2022, the delinquency rate on the indirect lending program was relatively stable, ranging from 0.77 percent to 0.47 percent, while the net charge-off rate ranged between 0.70 percent and 0.24 percent.[71]

TABLE 1—FICU INDIRECT LENDING ACTIVITIES [72]

(in $ million)	2015	2016	2017	2018	2019	2020	2021	2022
Total Outstanding Indirect Loans	136,583	165,171	194,016	221,477	228,559	233,161	257,271	336,845
% Year over Year Growth	20.29	20.93	17.46	14.15	3.20	2.01	10.34	30.93
% Indirect Loans Outstanding/Total Loans	17.35	19.00	20.27	21.22	20.63	20.05	20.50	22.36
Total Del. Indirect Loans (>=60 Days)	988	1,264	1,391	1,494	1,513	1,291	1,198	2,479
% Loans Delinquent >=60 Days/Total Indirect Loans	0.72	0.77	0.72	0.67	0.66	0.55	0.47	0.74
Net Indirect Loan Charge-Offs	782	997	1,264	1,318	1,354	1,129	594	903

because the Federal credit union makes the final underwriting decision and the sales or lease contract is assigned to the Federal credit union very soon after it is signed by the member and the dealer or leasing company.'') (emphasis added).

[56] NCUA Legal Op. 15–0813.

[57] *Id.* (providing in relevant part, ''*[o]riginating lender* means the participant with which the borrower initially or originally contracts for a loan and who, thereafter or concurrently with the funding of the loan, sells participations to other lenders.'').

[58] *See* § 701.22(b)(4)(iv); *see also* NCUA Legal Op. 15–0813; *and* 78 FR 37946, 37949 (explaining that ''a lender 'may have a decreased interest in *properly underwriting a loan* if they know they can later reduce their risk by selling participation interests in it.' '').

[59] *See id.*

[60] *See* NCUA Legal Op. 97–0546.

[61] *See id.*

[62] *See id.*

[63] Emphasis added.

[64] *See* NCUA Legal Op. 97–0546.

[65] The preamble to the 1998 proposal to amend the eligible obligations rule requested public comment on whether the NCUA should specify a certain number of days as constituting ''very soon.'' 63 FR 41976, 41977 (Aug. 6, 1998). After considering the comments, however, the NCUA Board determined not to specifically define it because it wanted to provide FCUs with flexibility under various circumstances. The NCUA Board also clarified that assignment of the loan means acceptance of the loan and not necessarily the physical receipt of the loan documentation, recognizing that acceptance and payment are often done electronically. However, physical receipt of the loan documents by the FCU should occur within a reasonable time following acceptance of the loan. 63 FR 70997, 70998 (Dec. 23, 1998); *see also* NCUA Legal Op. 97–0546 (Aug. 6, 1997) (Concluding that an indirect lending arrangement where the retailer made a loan and assigned it to the purchasing credit union within one business day met the ''very soon after'' timing requirement.).

[66] 63 FR 41976, 41977 (Aug. 6, 1998).

[67] NCUA Call Report data for all FICUs from the 4th quarter of 2015 through the 2nd quarter of 2022.

[68] NCUA Call Report data for all FICUs from the 4th quarter of 2015 through the 4th quarter of 2021.

[69] NCUA Call Report data for all FICUs from the 4th quarter of 2015 through the 4th quarter of 2022.

[70] *Id.*

[71] *Id.*

TABLE 1—FICU INDIRECT LENDING ACTIVITIES [72]—Continued

(in $ million)	2015	2016	2017	2018	2019	2020	2021	2022
% Net Charge-Offs/Avg Indirect Loans	0.63	0.66	0.70	0.63	0.60	0.49	0.24	0.30

For the reasons discussed previously, and consistent with sections 107(5) and 107(5)(E) of the Act and the 2015 Opinion, the Board is codifying into the NCUA's regulations its interpretation that an eligible organization may be considered an ''originating lender'' for purposes of § 701.22 where the eligible organization generates a loan through an indirect lending arrangement. Moreover, the Board is clarifying in the regulation that any ''eligible organization''—as the term is defined under § 701.22(a)—that acquires a loan through an indirect lending arrangement acts as the originating lender for purposes of § 701.22, provided the eligible organization made the final underwriting decision regarding making the loan and was assigned the loan or sales contract very soon after the inception of the obligation to extend credit. In such cases, the Board considers the third party processing the loan to be an agent of the eligible organization that performs as an administrative functionary processing the loan for the eligible organization, and the third party's activities are part and parcel, and an extension, of the eligible organization's lending operations.

Where an indirect loan is underwritten by the purchasing eligible organization before the loan is made and the loan is transferred to the eligible organization very soon after the inception of the obligation to extend credit, the Board believes there is little risk the loan will not be underwritten to the eligible organization's standards. Accordingly, the final rule amends current § 701.22(a) by adding to the end of the definition of ''originating lender'' a second clarifying sentence providing that the originating lender includes a participant that acquires a loan through an indirect lending arrangement as defined under § 701.21(c)(9). Proposed paragraph (c)(9) provides in relevant part that *indirect lending arrangement* means a written agreement to purchase loans from the loan originator where the purchaser makes the final underwriting decision regarding making the loan, and the loan is assigned to the purchaser very soon after the inception of the obligation to extend credit.

The Board requested comment in the proposal on whether there are certain types of transactions that should be excluded from the interpretation above. In particular, the Board asked whether there are transactions in which eligible organizations acquire loans through indirect lending arrangements, but the third parties making the loans do *not* act as administrative functionaries processing the loan on behalf of the eligible organizations, and the third parties' activities are *not* part and parcel, and an extension, of the eligible organizations' lending operations. If there are transactions of this type, commenters were asked to explain why they should be excluded and provide information about the transactions and the specific activities undertaken by the parties.

Public Comments

All comments received on this issue supported revising the definition of ''originating lender'' to codify the 2015 Opinion. One commenter recommended the NCUA amend the definition of ''originating lender'' further to recognize and separate the functions of the originator, initial lender and subsequent owner/purchaser. The commenter also recommended amending the definition to recognize the different point in time of the legal ownership of the loan even though such lending decisions are made in compliance with the underwriting stipulations of the credit union that buys the loan after the initial funding of the loan by the fintech/flow partner. The commenter suggested these additional changes are important because they would (a) follow the legal ownership of the loan, (b) place the responsibility on the originator to comply with the requisite regulations—for example, Consumer Financial Protection Bureau (CFPB) reporting—and (c) if future regulatory requirements are placed on the originator, there would be no confusion about which party is responsible for complying with such requirements. In the commenter's opinion, the fintech originator should have responsibility for complying with regulations and the credit union's due diligence should include an extensive review of the originator's policies and procedures to ensure compliance with all regulations.

Another commenter asked that the NCUA clarify further in the definition whether both the indirect loan source (*e.g.,* dealer) and the purchasing credit union are ''originators,'' because the current language could cause interpretive confusion and raise questions as to Call Report instructions and other areas regarding what the scope of origination is versus other types of indirect lending, such as correspondent mortgage lending. The commenter explained that the language ''from the loan originator'' in the definition suggests that when a broker closes a loan in the credit union's name it is not an indirect loan, while prior interpretations have suggested that it might be. The commenter recommended, in particular, that the NCUA not use the word ''originator'' in the definition as it relates to sources of indirect loans because it introduces confusion about the meanings of terms under the 2015 Opinion and prior doctrine.

Discussion

The comments received regarding the changes to the definition of ''originating lender'' all generally supported the proposed change. The NCUA did, however, receive comments requesting additional changes to the proposed definition of ''originating lender'' and the associated definition of ''indirect lending arrangement'' in § 701.21(c)(9)(i). Those additional changes go beyond the scope of the proposed rule and will be retained for consideration by the NCUA during future rulemakings relating to indirect lending. Accordingly, the final rule adopts the changes to the definition of ''originating lender'' in § 701.22(a) as proposed for the reasons set forth in the notice of proposed rulemaking.

Some commenters requested additional clarification regarding the relationship between the originating lender and indirect lender. The term ''originating lender'' is defined in the final rule as the participant with which the borrower initially or originally contracts for a loan and who, thereafter, concurrently with the funding of the loan, sells participations to other lenders. Originating lender includes a participant that acquires a loan through an indirect lending arrangement as defined under § 701.21(c)(9). The term ''loan participation'' is defined as a loan where one or more *eligible organizations* participate pursuant to a written agreement with the originating lender, and the written agreement

[72] *Id.*

requires the originating lender's continuing participation throughout the life of the loan. For purposes of the NCUA's regulations, a FICU acquiring a loan through an indirect lending arrangement is the originating lender. The acquiring FICU, however, may not be considered the originator under other applicable state laws, federal laws, or both. In such cases, the acquiring FICU is generally required to comply with all applicable laws.

Under § 701.22(b), a FICU may purchase a participation interest in a loan from an eligible organization only if the loan is one the purchasing credit union is empowered to grant and certain additional conditions are satisfied. Both the current rule and this final rule limit purchases of loan participations to purchases from eligible organizations. An ''eligible organization'' is defined in the current and final rule as a credit union, credit union organization, or financial organization. The term ''financial organization'' is defined under the current and final rule as any federally chartered or federally insured financial institution and any state or federal government agency and its subdivisions. This final rule makes no changes to either definition. The term ''financial organization'' includes participants outside the credit union industry, including federally chartered and federally insured financial institutions, such as banks, and state and federal government agencies and their subdivisions.[73] In addition, the current and final rule's definition of ''eligible organization'' includes non-federally insured or non-federally chartered credit unions through the definition's use of the term ''credit union.'' [74]

Additional concerns? The Board requested comment in the proposal on whether there are other factors, changes, safety and soundness, or compliance implications the NCUA should consider related to the proposed amendments to the definition of ''originating lender.'' The Board asked further whether there are structural, safety and soundness, or compliance concerns that would warrant considering that the addition of intermediaries in loan origination transactions, including CUSOs, precludes a credit union assignee from being considered the originating lender under the revised definition in the proposed rule. Finally, the Board asked whether there are any additional safety and soundness or compliance implications concerning the proposed definition of ''originating lender'' that the Board should consider.

Public Comments

One commenter responded that, in many instances, CUSOs assist credit unions with various aspects of the loan origination process. The commenter explained that CUSOs may provide specific expertise (such as in member business loans) or other services to assist in credit unions making appropriate decisions; however, the credit union is still funding the loan according to its own guidelines (or as agreed upon through a CUSO) and should be considered the originating lender.

Discussion

The Board appreciates the comment above and notes that the final rule does not affect the ability of CUSOs to provide loan support services to FICUs under part 712 of the NCUA's regulations and that simply providing loan support services does not necessarily change what entity is the originating lender.

Section 701.22(e) Temporary Regulatory Relief in Response to COVID–19

From April 21, 2020, to December 31, 2022, § 701.22(e) of the NCUA's regulations provided that, notwithstanding paragraph (b)(5)(ii) of § 701.22, during the period commencing on April 21, 2020, and *concluding on December 31, 2022,* the aggregate amount of loan participations that may be purchased from any one originating lender shall not exceed the greater of $5,000,000 or 200 percent of the FICU's net worth.[75] The Board approved § 701.22(e) to help ensure that FICUs remained operational and had sufficient liquidity during the COVID–19 pandemic.[76] The Board concluded, at the time, that the amendments would provide FICUs with the necessary flexibility in a manner consistent with the NCUA's responsibility to maintain the safety and soundness of the credit union system.[77] As provided in paragraph (e), the temporary regulatory relief provided under the paragraph expired on December 31, 2022. Because the temporary regulatory relief has expired, the Office of the Federal Register removed paragraph (e) shortly after December 31, 2022, as part of its regular review and editing process.

Public Comments

Three commenters recommended the NCUA extend or permanently adopt expired section 701.22(e)'s higher loan participation purchasing threshold. One of the commenters suggested that loan participation agreements generally have high fixed costs and comparatively modest variable costs so a $10 million loan participation agreement does not require significantly more due diligence or post-closing resources, from either a loan originator or potential loan participation interest purchasers, than a $2 million loan participation agreement. Consequently, individual loan participation interests generally represent larger rather than smaller capital commitments. Another commenter suggested that the United States is currently entering a period of declining liquidity access, raising concerns among FICUs about their ability to access liquidity. The commenter suggested the relief provided in § 701.22(e) would be more useful now than it was during the pandemic as the liquidity tightness the credit unions see now is due to the business cycle. The commenter suggested further that a permanent variation of this rule would not harm the safety and soundness of the credit union system, and as such, it asked the NCUA to reconsider removing this rule. One of the commenters suggested raising the aggregate amount of loan participations that may be purchased may decrease overall risks because it allows individual credit unions to develop relationships and trust with each other with ongoing transactions that reduce costs and risks for both.

Five commenters recommended the NCUA eliminate the limit on the aggregate amount of loan participations that may be purchased from any one originating lender altogether.

Discussion

The Board appreciates the comments that were submitted regarding expiration of the temporary regulatory relief under § 701.22(e). The temporary regulatory relief provided under paragraph (e) expired on December 31, 2022. The Board may consider approving temporary regulatory relief again in the future if circumstances warrant.

Benefits of the temporary regulatory relief. The Board requested comments on the impact, if any, that was experienced due to the flexibilities provided in the temporary rule; whether the temporary rule had any effect on the participation markets; and whether there are safety and soundness or

[73] 78 FR 37946, 37948 (June 25, 2013).

[74] *Id. at* 37949.

[75] Emphasis added.

[76] *See* 85 FR 22010 (April 21, 2020); 85 FR 83405 (Dec. 22, 2020) (extending paragraph (e) through Dec. 31, 2021); *and* 86 FR 72517 (Dec. 22, 2021) (extending paragraph (e) through Dec. 31, 2022).

[77] 85 FR 22010, 22010 (April 21, 2020).

compliance implications related to the expiration of the flexibilities.

Public Comments

One commenter responded to the NCUA's questions by stating that the change did not have a material effect on credit unions because it was temporary in nature but noted that the change did allow some credit unions to manage their balance sheets in a more effective manner during the relief period. The commenter suggested further that credit unions that benefited from the temporary regulatory relief may now be unable to work with those sellers/buyers again even though they have established strong relationships due to expiration of the temporary regulatory relief.

Discussion

The Board appreciates the comment that was submitted regarding the benefits of the temporary regulatory relief under § 701.22(e). The Board may consider approving temporary regulatory relief again in the future if circumstances warrant.

Other comments on the loan participation rule. The Board also invited other recommendations it should consider in the loan participation rule. For example, the Board asked whether it should consider replacing prescriptive limits with principles-based requirements, consider removing the limit on the amount of loan participations that could be purchased from any one originating lender under current § 701.22(b)(5)(ii), or both.

Public Comments

One commenter responded to the NCUA's questions by stating that eliminating the prescriptive limits and replacing them with principles-based requirements allows credit unions the most flexibility in managing their balance sheets. The commenter suggested that credit unions have proven the ability to manage their risk levels with many other prescriptive limits being removed.

Discussion

The Board appreciates the comment above and will consider replacing prescriptive limits with more principles-based requirements where appropriate in future rulemakings.

Section 701.23 Purchase, Sale, and Pledge of Loans

As discussed in more detail in this portion of the preamble, this final rule makes several changes to current § 701.23 of the NCUA's regulations. These changes are intended to clarify numerous provisions regarding the purchase, sale, and pledge of eligible obligations. The changes also provide FCUs expanded authority and autonomy to innovate and transact business with fintech companies and other institutions that provide services associated with the origination and sale of loans made to members of FCUs.

In addition, the final rule adds new headings to a number of subparagraphs under § 701.23. The addition of these headings is a non-substantive change to both the current regulation and proposed § 701.23, which is intended to add consistency to the section as well as make the section more reader friendly. In addition to the other changes discussed in this part of the preamble, the final rule adds the following new headings to § 701.23. Paragraph (b)(1) is amended to add the heading *purchase of obligations from any source*. Paragraph (b)(1)(i) is amended to add the heading *eligible obligations*. Paragraph (b)(1)(ii) is amended to add the heading *notes of a liquidating credit union's individual members*. Paragraph (b)(1)(iii) is amended to add the heading *student loans*. Paragraph (b)(1)(iv) is amended to add the heading *real estate-secured loans*. Paragraph (b)(3) is amended to add the heading *other requirements*. Paragraph (b)(4) is amended to add the heading *five-percent limitation*. Paragraph (b)(5) retains the heading *grandfathered purchases* from the current rule. Paragraph (b)(6) is amended to add the heading *written purchase policies*. Paragraph (h)(1) is amended to add the heading *expanded purchase authority*.

Public Comments

Several commenters specifically offered strong support for the proposed edits to § 701.23. One commenter agreed that removing some of the limits in the current regulation will greatly improve credit union activity with eligible obligations and allow members to be served within the industry without incremental risk being placed on the Share Insurance Fund. Another commenter suggested that the clarifying language on eligible obligations and removal of the prescriptive limitations will eliminate ambiguity on the interpretation regarding permissible activities. Another commenter supported the proposed changes but thought more should be done to reduce confusion regarding whether §§ 701.22 or 701.23 applies to a particular transaction. One commenter stated that FISCUs should also benefit from this rule pursuant to state credit union act parity statutes. The commenter recommended finalizing the amendments to § 701.23 as proposed. The commenter, however, also recommended that the NCUA clarify in the loan participation and eligible obligation rules that a purchasing FICU has discretion to classify a partial interest in a loan under either Section 701.22 or 701.23 when the terms and conditions of the purchase meet the requirements of both rules. As an alternative, the commenter requested that, even if credit unions are obligated to designate a transaction as a loan participation or eligible obligation at or near the time of the sale/purchase (for example on a subsequent Call Report), credit unions be given discretion to change that designation at a later time if they choose so long as the terms and conditions of the purchase meet the requirements of both rules. The commenter suggested this change could be made by adding new paragraphs to §§ 701.22 and .23 providing as follows:

> Each FICU that is party to a transaction may choose to categorize it as either a transaction under this rule [§ 701.22 or § 701.23], or alternatively as a transaction under [§ 701.22 or § 701.23], and may designate it as such as necessary (for example on a Call Report). FICUs that are party to the same transaction do not have to categorize or designate the transaction in the same manner, and FICUs retain discretion to recategorize and redesignate the transaction from time to time.

Discussion

Consistent with the strong support received from commenters, the Board is adopting the changes to § 701.23 largely as proposed, for the reasons set forth in the notice of proposed rulemaking, with certain changes that are discussed in the section-by-section analysis below. The changes and clarifications requested in the comments above would expand the authorities proposed beyond the scope of the proposed rule. Thus, the comments will be retained for consideration in future rulemakings relating to loan purchases.

Section 701.23 Introductory Paragraph

The Board added the introductory paragraph to § 701.23 as part of the 2013 Final Rule.[78] The introductory paragraph was added to clarify several issues related to the scope and applicability of § 701.23. In particular, the 2013 Final Rule explained that the rule added introductory text to § 701.23 to clarify the scope of § 701.23 and to distinguish transactions under § 701.23 from transactions covered by § 701.22. The 2013 Final Rule explained further that RegFlex provides a limited

[78] 78 FR 37946 (June 25, 2013).

exception to the general requirement that an FCU's purchase, sale, or pledge of all or part of a loan must be to one of its own members.[79] Specifically, the 2013 final rule explained that the exception permits FCUs that meet the well-capitalized standard to buy loans from other FICUs without regard to whether the loans are eligible obligations of the purchasing FCU's members or the members of a liquidating credit union. The 2013 Final Rule also explained that it made a parallel conforming amendment to the introductory text to § 701.22 in this regard.[80]

The introductory paragraph to current § 701.23 includes three sentences. The first sentence provides that the section governs an FCU's purchase, sale, or pledge of all or part of a loan to one of its own members where no continuing contractual obligation is contemplated between the seller and the purchaser. The first sentence also notes that there is a limited exception to the membership requirement for certain well-capitalized FCUs. The second sentence elaborates on the membership requirement by providing that the borrower must be a member of the purchasing FCU *before* the purchase is made, except as provided in current § 701.23(b)(2). The third sentence provides broadly that an FCU may not purchase a non-member loan to hold in its portfolio.

Since amending § 701.23 as part of the 2013 Final Rule, the NCUA has received numerous inquiries from NCUA examiners, FCUs, fintech companies, and other parties who have expressed confusion about how to interpret these provisions. This confusion has led to inconsistent reporting of loan interests by FCUs and uncertainty regarding which of the two sections, § 701.22 or § 701.23, applies to certain transactions, particularly innovative programs that have been designed by FICUs after 2013. In addition, the Board is concerned that continued confusion about when a borrower is required to be a member under § 701.23 could discourage FCUs from entering into certain safe and sound loan purchase, sale, and pledge agreements that are within their statutory authority.

The clause in the first sentence of the introductory paragraph to current § 701.23, which provides ''where no continuing contractual obligation between the seller and purchaser is contemplated,'' continues to be a source of confusion for examiners and the credit union system. As previously mentioned, loan purchase agreements, regardless of whether the transactions involve the purchase of an eligible obligation or a loan participation, frequently contain some form of continuing contractual obligation between the buyer and the seller, including representations and warranties regarding the loans and loan repurchase agreements, servicing agreements, and other similar types of ongoing obligations. Accordingly, the final rule deletes the continuing contractual obligations clause in current § 701.23. The Board intends this deletion to work in conjunction with the proposed changes to the introductory paragraph to current § 701.22.

The final rule also removes the clause in the first sentence of the introductory paragraph to current § 701.23 referring to the limited exception for well-capitalized FCUs. As discussed in more detail subsequently in the part of the preamble on § 701.23(b)(2), the final rule removes the well-capitalized requirements for FCU purchases of certain non-member loans from FICUs. Accordingly, deleting the clause in the introductory paragraph referring to the limited exception for well-capitalized FCUs is a necessary conforming amendment.

The second sentence in the introductory paragraph to current § 701.23 provides that for purchases of eligible obligations, except as described in paragraph (b)(2) of the section, the borrower must be a member of the purchasing FCU before the purchase is made. As discussed previously, there are express exceptions to the membership requirement under paragraph (b)(1) as well as under paragraph (b)(2). For example, paragraphs (b)(1)(iii) and (iv) authorize FCUs to buy non-member loans to complete a pool of loans for resale. Accordingly, the final rule amends the second sentence in the introductory paragraph to current § 701.23 to provide that for purchases of eligible obligations, except as described under paragraph (b) of the section, the borrower must be a member of the purchasing FCU before the purchase is made.

The third sentence in the introductory paragraph to current § 701.23 provides that an FCU may not purchase a non-member loan to hold in its portfolio. This prohibition appears to have originally been intended to address FCU purchases of non-member loans to complete pools of loans for resale, as authorized for real estate-secured loans and federally guaranteed student loans under current § 701.23(b)(1)(iii) and (iv). The prohibition on retaining the non-member loans in portfolio goes together with the authority in paragraphs (b)(1)(iii) and (iv) because those provisions allow an FCU to buy such non-member loans solely to complete a pool of loans for resale. The second sentence in current § 701.23(b)(1)(iv) further confirms this relationship by providing that a pool must include a substantial portion of the credit union's members' loans *and must be sold promptly*.[81] For other purchases of non-member loans under current § 701.23, the authority is not tied to a plan or requirement to resell the loans being purchased. Prohibiting the FCU from retaining the loans in portfolio, as the current wording in the undesignated introductory paragraph implies, unnecessarily restricts FCUs' authority to purchase and hold non-member loans from FICUs under current § 701.23(b)(1)(ii)[82] and (b)(2). Accordingly, the final rule deletes the third sentence in the introductory paragraph to § 701.23, providing that an FCU may not purchase a non-member loan to hold in its portfolio.

For the reasons outlined in the preceding paragraphs, the final rule amends the introductory text of § 701.23 to provide that the section governs an FCU's purchase, sale, or pledge of all or part of a loan to one of its own members, subject to certain exceptions. The introductory paragraph provides further that for purchases of eligible obligations, except as otherwise described under paragraph (b) of § 701.23, the borrower must be a member of the purchasing FCU before the purchase is made.

Public Comments

Three commenters specifically expressed their support for the clarifying amendments to the introductory paragraph to § 701.23. Another commenter offered support for removing the following sentence: ''A federal credit union may not purchase a non-member loan to hold in its portfolio.'' And one commenter recommended amending the second sentence of the introductory paragraph to clarify that an FCU may purchase certain eligible obligations prior to the borrower becoming a member of the purchasing FCU under §§ 701.23(b)(1) and 701.23(b)(2).

Discussion

The comments received on the changes to the introductory paragraph to 701.23 were strongly supportive. The

[79] 12 CFR 701.23(b)(2).

[80] 78 FR 37954–37955.

[81] Emphasis added.

[82] Authorizing FCUs to purchase eligible obligations of a liquidating credit union's individual members, from the liquidating credit union.

comment requesting that the Board allow purchases of certain eligible obligations prior to the borrower becoming a member goes beyond the scope of the proposal. Accordingly, the Board is adopting the changes to the introductory paragraph as proposed for the reasons set forth in the notice of proposed rulemaking.

Section 701.23(a) Definitions

The final rule, in addition to other changes discussed below, amends current § 701.23(a) to add the heading ''*Definitions*'' to the paragraph and remove the numbering from the individual definitions under paragraph (a). These changes are intended to avoid errors and confusion when definitions in paragraph (a), which may be cross referenced elsewhere in the NCUA's regulations, are added or removed. Accordingly, the individual definitions included under § 701.23(a) are listed in alphabetical order but not numbered individually.

Eligible obligation.

The final rule amends the definition of eligible obligation under § 701.23(a) to clearly distinguish between an eligible obligation and a note held by a liquidating credit union. Current § 701.23(a) defines the term ''eligible obligation'' broadly to mean a loan or group of loans, which includes the notes of a liquidating credit union.[83] As explained in the part of the preamble on § 701.23(b)(4), the statutory 5-percent limitation on the aggregate of the unpaid balance of notes purchased under § 701.23 applies only to notes of liquidating credit unions and not to eligible obligations as that term is generally used under section 107(13) [84] of the Act. Accordingly, the final rule amends the definition of eligible obligation to clarify that the term does not include a note held by a liquidating credit union.[85]

The final rule also amends the definition of eligible obligation to clarify that the term includes a whole loan or part of a loan. The NCUA has long held the position that the term ''eligible obligation'' includes loans, in whole or in part, provided the loan does not meet the definition of a loan participation under § 701.22(a).[86] The Board believes that the amended definition of an eligible obligation will provide clarity and reduce confusion in the credit union system concerning when a transaction involving a loan purchased in part (a partial loan) meets the regulatory definition of an eligible obligation. Many credit union officials find the current eligible obligations rule unclear, specifically when attempting to determine which rule applies to a loan purchased in part. The amended definition will help FCU officials to differentiate between transactions involving partial loan purchases that meet the definition of an eligible obligation under § 701.23 and transactions involving partial loan purchases that meet the definition of a loan participation under § 701.22.

Current § 701.22(a) provides that loan participation means a loan where one or more eligible organizations participate pursuant to a written agreement with the originating lender, and the written agreement requires the originating lender's continuing participation throughout the life of the loan. For example, if an FCU purchases a partial loan that does not meet the definition of loan participation under amended § 701.22(a), then the transaction may still be permissible provided it meets the definition of an ''eligible obligation'' under amended § 701.23(a) and meets the requirements under that section.

The final rule also amends the definition of ''eligible obligation'' to remove the words ''group of loans.'' The words are redundant because the term ''eligible obligation'' is used in its plural form, eligible obligations, throughout proposed and current § 701.23 to indicate where the section authorizes or applies to the purchase of one or more loans. The Board believes removing the phrase ''group of loans,'' in conjunction with the other changes discussed in this proposal, will clarify the definition of eligible obligation. Accordingly, for all the reasons discussed above, proposed § 701.23(a) would provide that *eligible obligation* means a whole loan or part of a loan (other than a note held by a liquidating credit union) that does not meet the definition of a loan participation under § 701.22(a).

Public Comments

Four commenters specifically expressed support for the revised definition of eligible obligation as proposed. Two commenters recommended further clarifying the definition of eligible obligation. One of those commenters explained that further defining the term would allow credit unions the ability to understand the accounting and loss reserve ramifications on how the loan is sold. The commenter also asked the following two clarifying questions: (1) If a credit union sells a tranche in a portfolio of loans would this constitute an eligible obligation? And (2) what if a credit union sold just the interest portion of a loan?

Discussion

The comments received on the revised definition of eligible obligation were generally supportive. Two commenters did request further clarifying the definition; however one commenter did not specify what aspects of the proposed definition were confusing or how the definition could be clarified. The other commenter asked questions, which are addressed below. Given the lack of objections to the proposed definition, other than general requests for further clarification, the Board is adopting the definition of eligible obligation as proposed for the reasons set forth in the notice of proposed rulemaking.

Regarding the commenter's questions about selling a tranche in a portfolio of loans or only selling the interest receivable of a loan, the transaction must qualify for derecognition under generally accepted accounting principles (GAAP). Additionally, when a loan is sold in part under either §§ 701.22 or 701.23 of the NCUA's regulations, the transaction must meet the definition of a participation interest under GAAP.[87] This definition is applied at a loan level and not at the

[83] *See, e.g.,* §§ 701.23(b)(1)(ii), (b)(2)(ii), and (b)(4).

[84] Section 1757(13) (authorizing FCUs, in accordance with rules and regulations prescribed by the Board, to purchase, sell, pledge, or discount or otherwise receive or dispose of, in whole or in part, any eligible obligations (as defined by the Board) of its members and to purchase from any liquidating credit union notes made by individual members of the liquidating credit union at such prices as may be agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union, but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union[.]).

[85] The new definition of eligible obligation excludes notes held by a liquidating credit union.

[86] *See* 78 FR 37946, 37948 (June 25, 2013) (providing in part as follows: ''[The introductory paragraph to § 701.22] clarifies that the [section] applies to a [consumer] FICU's purchase of a loan participation where the borrower is not a member of that credit union. Generally, an FCU's purchase, in whole or in part, of its member's loan is covered by NCUA's eligible obligations rule at § 701.23.'' The 2013 Final Rule also notes in FN 2 that there is ''a limited exception for certain well-capitalized federal credit unions to purchase, subject to certain conditions, non-member eligible obligations from a FICU. 12 CFR 701.23(b)(2).''); *see also,* 12 U.S.C. 1757(13) (providing in part that an FCU shall have power, ''in accordance with rules and regulations prescribed by the Board, to purchase, sell, pledge, or discount or otherwise receive or dispose of, *in whole or in part,* any eligible obligations (as defined by the Board) of its members.'' (emphasis added)).

[87] Note that the definition of a participation interest under GAAP (*see* ASC 860–10–40–6A) is not the same as the definition of a loan participation under § 701.22 of the NCUA's regulations.

portfolio level. If an interest in a loan is sold and does not meet the definition of a participation interest under GAAP, in general, the transaction must be recorded as a secured borrowing. To meet the definition of a participation interest under GAAP, the transferor generally must sell a pro-rata share of principal and interest, except for market-based servicing fees. While the commenter did not provide sufficient details in their questions for the Board to provide definitive answers, the transactions would likely not qualify as the sale of a participation interest under GAAP and, therefore, generally are not covered by either §§ 701.22 or 701.23 of the NCUA's regulations. In general, the purchaser must record the asset regardless of whether the seller qualifies for derecognition under GAAP.

Liquidating credit union.

The final rule adds a definition of liquidating credit union to § 701.23(a) to identify the point in time when a credit union becomes a liquidating credit union for purposes of applying the 5-percent limitation in § 701.23(b)(4). The term ''liquidating credit union'' is used but not defined in current § 701.23 because the section does not distinguish between eligible obligations and notes of liquidating credit unions for purposes of calculating the 5-percent limitation on the aggregate of the unpaid balance of loans purchased under current § 701.23(b)(1) and (b)(2)(ii). As explained in more detail later in the part of the preamble about proposed § 701.23(b)(4), under this final rule, the 5-percent limitation applies only to notes purchased from liquidating credit unions, making it necessary for the NCUA to specify the point in time when a credit union meets the definition of a liquidating credit union. Consistent with Congress' use of the broad term ''credit union'' in section 107(13) of the FCU Act, the definition of liquidating credit union would include both liquidating FICUs and liquidating credit unions not insured by the NCUA.[88]

Accordingly, the final rule provides that *liquidating credit union* means, (1) in the case of a voluntary liquidation, a credit union is a liquidating credit union as of the date the members vote to approve liquidation; and (2) in the case of an involuntary liquidation, a credit union is a liquidating credit union as of the date the board of directors is served an order of liquidation issued by either the NCUA or the state supervisory authority.

Public Comments

Four commenters expressed general support for adding the proposed definition of liquidating credit union.

Discussion

Given the support received from commenters, and the lack of objections, the Board is adopting the definition of liquidating credit union as proposed.

Should other terms be defined? The Board requested comment on whether there are additional terms used in § 701.23, such as ''empowered to grant,'' that it should consider defining or further clarifying in future rulemakings.

Public Comments

Two commenters responded that the NCUA should not define the term ''empowered to grant.'' One of the commenters explained that the term should remain undefined so it can be sufficiently flexible to fully incorporate credit unions' currently recognized lending authorities and all those the NCUA recognizes in the future. On the other hand, one commenter responded that the term ''empowered to grant'' should be defined. The commenter explained that the term has a particular bearing on credit union activity under § 701.22 and § 701.23 and has been addressed in several NCUA legal opinion letters over the years. The commenter recommended that the NCUA solicit specific feedback on what should and should not fall within the scope of ''empowered to grant.''

One commenter asked that the NCUA define the term ''notes'' to avoid any future confusion regarding the purchase of notes of liquidating credit unions. Another commenter specifically recommended the term ''notes'' not be defined or clarified further.

Discussion

The Board appreciates the detailed comments submitted regarding defining additional terms in § 701.23. While the comments received in this area go beyond the scope of this rulemaking, the comments will be retained for consideration by the NCUA during future rulemakings relating to the purchase, sale, and pledge of eligible obligations and notes of liquidating credit unions.

In October 2004, the NCUA issued a legal opinion letter explaining that ''the phrase 'empowered to grant' as used in [the] NCUA's regulations refers to the authority of an FCU to make the type of loans permitted by the [FCU Act], NCUA regulations, FCU Bylaws, and its own internal policies.'' [89] The letter goes on to explain that the phrase ''empowered to grant'' does not include a membership requirement.[90]

Section 701.23(b) Purchase of Loans

Current § 701.23(b) would be amended, as discussed in more detail later in this preamble, to make certain substantive changes and to implement clarifying and conforming changes consistent with amendments to other subsections. The final rule amends the heading to current § 701.23(b) to clarify which transactions are covered under the paragraph. The Board believes that this would result in only a minor technical change to current § 701.23(b). The heading for current paragraph (b) is ''*Purchase.*'' The final rule adds the words ''of loans'' after the word ''purchase'' to better clarify the type of transactions this section would apply to, that being the purchase of loans. Accordingly, the paragraph heading for proposed § 701.23(b) would be revised to read ''*Purchase of loans.*''

Section 701.23(b)(1)

Section 701.23(b)(1)(ii)

Current § 701.23(b)(1)(ii) authorizes FCUs to purchase certain eligible obligations of a liquidating credit union's individual members from the liquidating credit union. As explained previously in the part of the preamble on § 701.23(a) regarding the definition of eligible obligation, notes of liquidating credit unions would no longer be included within the definition of eligible obligations. Consistent with that change, this final rule amends current § 701.23(b)(1)(ii) to remove the references to eligible obligations and authorize FCUs to purchase notes of a liquidating credit union's individual members from the liquidating credit union. Accordingly, § 701.233(b)(1)(ii) is amended to provide that an FCU may, subject to the requirements in § 701.23, purchase notes of a liquidating credit union's individual members, from the liquidating credit union.

[88] *See* Section 1757(13) (providing authority ''to purchase from any *liquidating credit union* notes made by individual members of the liquidating *credit union* at such prices as may be agreed upon by the board of directors of the liquidating *credit union* and the board of directors of the purchasing credit union, but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union;'' (emphasis added).).

[89] OGC Op. 04–0713 (Oct. 25, 2004); *see also* OGC Op. 02–0824 (Nov. 5, 2002) (noting that an FCU is not empowered to grant a loan with a prepayment penalty); *and* OGC Op. 01–1023 (Nov. 28, 2001) (noting that if an FICU meets all other requirements of the NCUA's regulations, the fact that the credit union has not itself granted the type of loan in question does not mean it is not empowered to grant such a loan.).

[90] *Id.*

Public Comments

One commenter suggested that it understands keeping the 5-percent limitation on the purchase of these types of notes but believed the limitation could be eliminated because of (a) the relative rarity of liquidations, and (b) the NCUA's role in approval of purchase and assumption transactions to select those who can manage safety and soundness concerns.

Discussion

Section 107(13) of the FCU Act, which authorizes the purchases of notes of a liquidating credit union's members, provides that no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union. Accordingly, the Board is adopting the changes to § 701.23(b)(4) and retaining the 5-percent limitation as proposed for the reasons set forth in the notice of proposed rulemaking.

Section 701.23(b)(1)(iv)

The word ''mortgage'' is misspelled in the first sentence of current § 701.23(b)(1)(iv). The final rule amends § 701.23(b)(1)(iv) to correct that misspelling. No substantive changes are made to current paragraph (b)(1)(iv).

Section 701.23(b)(2) Purchase of Obligations From a FICU

The final rule amends current § 701.23(b)(2) to remove the CAMELS rating requirement and the capital classification requirements in the introductory paragraph. Current § 701.23(b)(2) provides that an FCU that received a composite CAMELS rating of ''1'' or ''2'' for the last two (2) full examinations and maintained a capital classification of ''well capitalized'' under part 702 of the chapter for the six (6) immediately preceding quarters may purchase and hold certain obligations, provided that it would be empowered to grant them. The final rule provides FCUs additional authority to purchase loans by removing the CAMELS rating and capital classification requirements.

The CAMELS rating and capital classification requirements were added to the NCUA's regulations as part of a 2001 final rule regarding the NCUA's RegFlex program.[91] The 2001 final rule explained, in response to commenters suggestions that the requirements be removed, as follows:

The Board continues to believe that CAMEL ratings and net worth ratios are the best measures of how well a credit union is managed and how much risk it presents to the NCUSIF and the credit union system. That is, consistent with safety and soundness concerns, credit unions with advanced levels of net worth and consistently strong supervisory examination ratings have earned exemptions from certain NCUA Regulations.[92]

FCUs have generally managed their loan purchase, sale, and pledge activity well since the addition of the CAMELS and capital requirements and continue to do so. Approximately 12 percent of FCUs were engaged in the purchase, sale, or pledge of loans during 2022.[93]

Additionally, the Board notes that this purchase authority is limited to purchases from a FICU. Therefore, the loans able to be purchased under this authority are already in the federally insured credit union system. Moving the obligation from one FICU to another FICU generally is not expected to result in a significant increase to the Share Insurance Fund's risk exposure.

Further, the current CAMELS and net worth restrictions are only applicable to a small segment of the credit union system given that the vast majority of FCUs have a CAMELS composite rating of 1 or 2 and are well-capitalized.[94] Expansion of this authority would allow slightly more FCUs to purchase obligations from a FICU, potentially creating additional revenue and capital for the purchaser and providing an additional outlet for selling FICUs, creating additional liquidity channels in the credit union system.

The NCUA believes any increased risk associated with removing the CAMELS rating and capital classification requirements in current § 701.23 would also be minimized by the addition of the proposed principles-based due diligence, risk assessment, and risk management requirements. Accordingly, the final rule amends the introductory paragraph to § 701.23(b)(2) to provide that an FCU may purchase and hold certain obligations if it would be empowered to grant them.

Public Comments

Twenty-six commenters offered their support for eliminating the CAMELS rating and capital classification requirements for the reasons provided in the proposal. One commenter suggested the change would allow a greater flow of funds between FCUs and FISCUs. The commenter suggested further that credit unions with CAMELS ratings of three and lower are negatively impacted by their current inability to access this market and allowing purchases of these obligations will help move them into a higher CAMELS rating. Another commenter suggested the proposed change will allow more FCUs to purchase obligations from a FICU, potentially creating additional revenue and capital for the purchaser and providing an additional outlet for selling FICUs, creating additional liquidity channels in the credit union system. Several commenters suggested that the proposed change will make sure smaller credit unions can also gain access to these loans and obtain some much-needed additional return on assets. The commenters also suggested the proposed change will allow larger credit unions to manage balance sheet risk by selling some of these loans to other credit unions without jeopardizing their relationships with non-credit union originators.

Discussion

Given the strong support expressed by commenters, and the lack of objections, the Board is adopting the changes to § 701.23(b)(2) as proposed for the reasons set forth in the notice of proposed rulemaking.

Section 701.23(b)(2)(ii) Notes of a Liquidating Credit Union

Current § 701.23(b)(2)(ii) authorizes FCUs to purchase certain eligible obligations of a liquidating credit union without regard to whether they are obligations of the liquidating credit union's individual members. As explained earlier in the part of the preamble on § 701.23(a) regarding the definition of eligible obligation, under this final rule notes of liquidating credit unions would no longer be included within the definition of eligible obligation. Consistent with that change, this final rule amends current § 701.23(b)(2)(ii) to remove the words ''eligible obligations'' and ''obligations'' and authorize FCUs to purchase notes of a liquidating credit union without regard to whether they are notes of the liquidating credit union's individual members.

Section 701.23(b)(3)

Section 701.23(b)(3)(ii)

The final rule amends the requirement in current § 701.23(b)(3)(ii) that written agreements and schedules of loans be retained by the purchaser. Current § 701.23(b)(3)(ii) provides that a written agreement and a schedule of the eligible obligations covered by the

[91] 66 FR 58656 (Nov. 23, 2001).

[92] 66 FR 58656.

[93] NCUA Call Report data for all FCUs as of the 2nd quarter of 2022.

[94] As of June 30, 2023, over 97 percent of FCUs were well-capitalized. Additionally, 78.5 percent of FCUs were rated a CAMELS composite 1 or 2 and these credit unions represented 95 percent of total FCU assets.

agreement are retained in the purchaser's office. Under the final rule, the purchasing FCU must still retain the written loan purchase agreement and a schedule of the eligible obligations covered by the agreement but is no longer required to retain the documents in the purchaser's office.

The Board acknowledges the requirement for the FCU to retain the written loan purchase agreement and schedule of the eligible obligations in the purchaser's office could imply that the written loan purchase agreement and schedule be retained in a hard-copy format, which is outdated given the current digital environment. An FCU might choose to store its records in electronic format, in the cloud, or housed in off-site servers or databases. An FCU must still make the loan purchase agreement and schedule of the eligible obligations covered by the agreement available upon request by the NCUA.[95] Credit unions that have some or all of their records maintained by an off-site data processor are considered to be in compliance for the storage of those records if the service agreement specifies the data processor safeguards against the simultaneous destruction of production and back-up information.[96] Accordingly, § 701.23(b)(3)(ii) of the final rule provides that a written agreement and a schedule of the eligible obligations covered by the agreement are retained by the purchaser.

This change will align this requirement with the NCUA's regulations and guidelines for FICUs on records preservation programs. Under part 749, the NCUA does not require or recommend a particular format for record retention. If the credit union stores records on microfilm, microfiche, or in an electronic format, the stored records must be accurate, reproducible, and accessible to an NCUA examiner.[97] If records are stored on the credit union premises, they should be immediately accessible upon the examiner's request; if records are stored by a third party or off site, then they should be made available to the examiner within a reasonable time after the examiner's request.[98] The credit union must maintain the necessary equipment or software to permit an examiner to review and reproduce stored records upon request. The credit union should also ensure that the reproduction is acceptable for submission as evidence in a legal proceeding.[99]

Public Comments

Two commenters specifically offered support for aligning the requirements in §§ 701.23(b)(3)(ii), (c)(2), and (d)(1)(iii) with the electronic record availability and preservation standards outlined in part 749 of the NCUA's regulations.

Discussion

Given the strong support expressed by commenters, and the lack of objections, the Board is adopting the changes to § 701.23(b)(3)(ii), (c)(2), and (d)(1)(iii) as proposed for the reasons set forth in the notice of proposed rulemaking. Note also that current § 749.5 provides that, where NCUA regulations require credit unions to retain certain writings, records or information, credit unions may use any format that accurately reflects the information in the record, is accessible to all persons entitled to access by statute, regulation or rule of law, and is capable of being reproduced by transmission, printing, or otherwise. Section 749.5 provides further that the credit union must maintain the necessary equipment or software to permit an examiner to access the records during the examination process.

Section 701.23(b)(4)

The final rule amends current § 701.23(b)(4), which limits the aggregate unpaid balance of certain eligible obligations purchased by an FCU to a maximum of 5 percent of the FCU's unimpaired capital and surplus. Under the final rule, the 5-percent limitation applies solely to notes of a liquidating credit union purchased by an FCU from the liquidating credit union. As discussed in the following paragraphs, the Board has determined this change would remove a regulatory limit to the purchase of eligible obligations that the FCU Act does not require. The Board believes adequate safety and soundness of eligible obligations purchases can be accomplished through principles-based regulation rather than a one-size-fits-all limitation.

Section 701.23 provides both the regulatory authority for purchases of eligible obligations by an FCU and the limitations. Under the current rule, the 5-percent limitation applies to eligible obligations purchased by an FCU under § 701.23(b)(1) and (b)(2)(ii). In general, current paragraph (b)(1) authorizes an FCU to purchase (1) eligible obligations of its members; (2) eligible obligations of a liquidating credit union's members from the liquidating credit union; and (3) student loans and real estate-secured loans from any source to facilitate the purchasing FCU's packaging of a pool of such loans to be sold or pledged on the secondary market. Current paragraph (b)(2)(ii), which is on purchases from FICUs, authorizes an FCU to purchase the ''eligible obligations of a liquidating credit union without regard to whether they are obligations of the liquidating credit union's members.''

The statutory source of the 5-percent limitation is section 107(13) of the Act.[100] Section 107 generally enumerates the powers of FCUs, and paragraph (13) authorizes an FCU to make certain loan purchases. Specifically, paragraph (13) provides the following authority, verbatim: in accordance with rules and regulations prescribed by the Board, to purchase, sell, pledge, or discount or otherwise receive or dispose of, in whole or in part, any eligible obligations (as defined by the Board) of its members and to purchase from any liquidating credit union *notes* made by individual members of the liquidating credit union at such prices as may be agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union, but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of *notes* purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union.[101]

Section 107(13) applies to the purchase of two mutually exclusive categories of loans— ''eligible obligations'' (as that term may be defined by the Board) of the purchasing FCU's members and the ''notes'' of a liquidating credit union made to the liquidating credit union's members. The 5-percent limitation, however, applies solely to the second category of loans; that is, the notes of a liquidating credit union to its members. The statutory language specifies that ''no purchase may be made . . . if, upon the making of that purchase, the aggregate of the unpaid balances of *notes* purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union.'' [102] The 5-percent limitation is specific to the ''aggregate unpaid

[95] *See* § 749.2.

[96] *See* appendix A to part 749.

[97] *See* 12 CFR 749.5.

[98] 12 CFR part 749, app. A.

[99] *See generally* part 749; *and* NCUA Legal Op. 07–0812 (Jan. 2008), *available at https://www.ncua.gov/regulation-supervision/legal-opinions/2008/electronic-retention-records.*

[100] 12 U.S.C. 1757(13).

[101] *Id.* (emphasis added).

[102] Emphasis added.

balances of *notes*'' [103] purchased ''under authority of this paragraph'' (that is, paragraph (13) of section 107). As italicized in the preceding quotes, the only notes authorized to be purchased pursuant to section 107(13) are those of a liquidating credit union to its members. Notwithstanding the ambiguity introduced by the reference to the entire ''paragraph'' (13) in the context of the 5-percent limitation, the following term ''notes'' narrows the required scope of its application to purchases from a liquidating credit union.

Despite the statutory wording, current § 701.23 does not distinguish between eligible obligations and notes. Section 107(13) of the FCU Act empowers the NCUA to define the term ''eligible obligation.'' The NCUA has exercised this discretion by opting to jointly treat notes and other eligible obligations as the same type of instrument under its regulations. Both are encompassed in the regulatory definition of the term ''eligible obligation,'' which is defined to be ''a loan or group of loans.'' [104] Under the final rule, the 5-percent limitation applies solely to an FCU's purchase of the notes of a liquidating credit union. The limitation will not apply to other loans purchased by an FCU under the authority of section 107(13).

The final rule also amends the definition of eligible obligations to reflect the revised scope of the 5-percent limitation. As discussed previously, the final rule revises the definition of eligible obligation to mean ''a whole loan or part of a loan (other than a note held by a liquidating credit union) that does not meet the definition of a loan participation under § 701.22(a).'' [105]

The Board acknowledges that the current scope of the 5-percent limitation reflects or implies an alternate legal reading of the statutory language, which the Board recognizes as a plausible reading. The alternate reading hinges on the language providing that ''no purchase may be made *under authority of this paragraph*.'' The term ''this paragraph'' encompasses paragraph (13) of section 107 in its entirety. This reading applies the 5-percent limitation to all instruments (eligible obligations and notes) purchased pursuant to paragraph (13). The current regulation reflects such an interpretation, and the Board has made past statements in support of this reading.[106] This rulemaking constitutes a reconsideration of the NCUA's prior position. As noted, the NCUA has determined that the regulatory change made by this final rule is more consistent with the language of the FCU Act and is more aligned with the different safety and soundness considerations with respect to eligible obligations in general and notes purchased from a liquidating credit union.

This new reading is better supported by accepted canons of statutory construction. The statutory construction canon of ''consistent usage'' logically presumes that different words denote different ideas.[107] Accordingly, the use of the terms ''eligible obligations'' and ''notes'' is intended to distinguish between two mutually exclusive categories of loans. Further, the canon holds that ''a word or phrase is presumed to bear the same meaning throughout a text.'' [108] The use of the word ''notes'' in paragraph 107(13) is appropriately interpreted consistently and exclusively to reference only notes made by a liquidating credit union to its members.

This reading also aligns with the ''surplusage'' canon of statutory interpretation. Under this canon, ''every word and every provision is to be given effect if possible.'' [109] ''No word should be ignored. None should needlessly be given an interpretation that causes it to duplicate another provision or have no consequence.'' [110] This interpretation accounts for language subsequent to ''under authority of this paragraph'' that modifies the clause's scope. This subsequent language specifies that the prohibition applies only ''if, upon the making of that purchase, the aggregate of the unpaid balances of *notes* purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union.'' Thus, the limit's application is required only with respect to the purchase of ''notes,'' which, as stated previously, is appropriately narrowed to solely cover loans made by liquidating credit unions to their members. Reading the statute to require application of the 5-percent limitation to ''eligible obligations'' conflates the terms ''notes'' and ''eligible obligations,'' despite the different terminology Congress enacted. The effect of treating the terms as duplicative is to effectively ignore the use of the term ''notes,'' which should be separately considered under the surplusage canon.

It also bears noting that the stated rationale for original enactment of the 5-percent limitation does not apply to the purchase of eligible obligations. The 5-percent limitation language in section 107(13) of the Act was added by Congress in 1968 and referred solely to notes of liquidating credit unions at that time because that statute did not refer to purchases of eligible obligations.[111] That language is identical to the current version of the statutory text and continues to refer solely to ''notes'' of liquidating credit unions. Prior to the amendment, FCUs lacked express statutory authority to purchase the loans of liquidating credit unions. As a result, liquidating credit unions were hampered in their efforts to dispose of their assets to repay their members. The Senate report accompanying the legislation explained that the change would ''greatly increase the market for the notes of liquidating credit unions and will prevent liquidating credit unions from having to go outside the credit union movement to liquidate their assets.'' [112] However, Congress was also mindful of the risks that might be posed in purchasing the loans of credit unions compelled to liquidate due to poor management decisions.[113] As a result, it opted to limit the ability of an FCU to purchase notes of liquidating

[103] Emphasis added.

[104] 12 CFR 701.23(a).

[105] Under the current definition of eligible obligation, there may be instances where the notes of the liquidating credit union members are also eligible obligations of the members of the purchasing FCU. The 5-percent limitation will apply to these loans as they fall within the more specific category of eligible obligations purchased from a liquidating credit union.

[106] For example, the preamble to the 1979 final rule implementing the NCUA's eligible obligations authority contained the following statement: ''The Administration feels that the language of Section 107(13) is clear, and that the best interpretation is that adopted in the proposed rule'' (that is, the currently codified regulatory text). 44 FR 27068, 27070 (May 9, 1979).

[107] Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts,* 148 (2012).

[108] *Id.*

[109] *Id.* at 145.

[110] *Id.*

[111] Public Law 90–375 (approved July 5, 1968) (Providing authority, in accordance with rules and regulations prescribed by the Director, to purchase from any liquidating credit union notes made by individual members of the liquidating credit union at such prices as may be agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union, *but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union.* (emphasis added)).

[112] S. Rep. No. 1265, 90th Cong., 2d Sess., at 2 (June 18, 1968).

[113] *Statement of J. Deane Gannon, Director, Bureau of Federal Credit Unions, Social Security Administration, Department of Health, Education and Welfare,* FCU Act Amendments, Subcommittee on Financial Institutions of the Comm. on Banking and Currency, at 11–12 (May 24, 1968).

credit unions to 5 percent of its unimpaired capital and surplus.[114]

The express authority to purchase eligible obligations was later added to the text of section 107(13) in 1977.[115] The legislative history from that time shows the amendment was intended to provide FCUs with flexibility to use secondary market facilities to enhance liquidity, especially in relation to real estate loans.[116] The purchase by an FCU of loans made to its own members is not analogous to, and does not pose the same inherent risk that, purchasing the notes of a liquidating credit union does. Accordingly, it is reasonable that Congress would elect not to mandate a limit on the ability of an FCU to make such purchases. This supposition is supported by Congress' decision to use the new term ''eligible obligations'' (and in granting the NCUA broad authority to define this term), rather than simply revising the existing scope of the term ''notes'' to include member loans. Further, the legislative history accompanying enactment of the 1977 amendments does not make any mention of the 5-percent limitation being applicable to eligible obligations.

The 1977 legislative history in several instances also refers to the amendment granting FCUs the ability to purchase the ''notes'' of its members. One could infer from this that the term ''eligible obligations'' was intended to be read synonymously with ''notes.'' [117] This reading appears at least plausible because the broad category of ''notes'' could be seen to encompass various debt instruments, including notes or written documents evidencing a member's eligible obligations. Such a reading, however, is not required and is inferior to the interpretation the Board is proposing in this rule for two reasons. First, Congress ultimately opted to use the term ''eligible obligations'' in the statutory amendment that was enacted. The codified text supersedes non-binding statements in the legislative record.[118] Second, and as discussed earlier, accepted canons of statutory construction favor an interpretation that provides individual terms with their own individual meaning.

For the preceding reasons, the NCUA has determined that the regulatory change made by this final rule is more consistent with the language of the FCU Act. The NCUA also has determined that the amendment will not pose a safety and soundness risk due to the addition of principles-based risk management requirements. By amending the current rule to narrow the application of the 5-percent limitation to the aggregate of the unpaid balances of loans purchased from any source to instead apply to only the ''notes'' of a liquidating credit union, the Board intends to allow FCUs greater capacity, flexibility, and individual autonomy to establish their own risk tolerance limits for the amount of the loans of its members that can be purchased from any source other than a liquidating credit union. This includes other financial institutions, fintech companies, third-party loan acquisition channels such as CUSOs, and other loan-originating retailers.

While the narrower interpretation of section 107(13) of the Act will remove the existing limit on the amount of eligible obligations that an FCU could purchase, establishing risk management expectations will reduce potential risk to the Share Insurance Fund while allowing FCUs more flexibility in how they manage their eligible obligation purchase activities. New § 701.23(b)(6), which is discussed in detail later in the part of the preamble on paragraph (b)(6), would outline minimum risk management standards that must be included in the written loan purchase policy for any FCU that plans to purchase eligible obligations. The Board believes these risk management standards should be part of the normal business practices at well-run FCUs that engage in the purchase of eligible obligations and, as such, should not represent an additional burden. It is the Board's view that the proposed changes would allow well-run FCUs more autonomy and flexibility in how they conduct their business. Provided the FCU can demonstrate and document that its loan purchase activity does not present a material risk to the viability or solvency of the FCU through the standards established in § 701.23(b)(6), the FCU should be able to establish its own internal standards to meet its business needs and the needs of its members.

The final rule amends current § 701.23(b)(4) to remove the exclusions provided in paragraphs (b)(4)(i) through (iv) and revises the current language to apply the 5-percent limit only to notes purchased from liquidating credit unions. While the narrower interpretation of section 107(13) of the FCU Act will remove the existing restriction on the amount of eligible obligations an FCU could purchase, the new risk management requirements will minimize the potential increase in risk to the Share Insurance Fund, while allowing FCUs more flexibility in how they manage their loan purchase activities. Accordingly, § 701.23(b)(4) is revised to provide that the aggregate of the unpaid balance of notes purchased under paragraphs (b)(1)(ii) and (b)(2)(ii) of § 701.23 shall not exceed 5 percent of the unimpaired capital and surplus of the purchaser.

The Board invited comments concerning the proposed narrowing the application of the 5-percent limitation to only apply to the aggregate amount of ''notes'' that can be purchased by an FCU from a liquidating credit union.

Public Comments

Twenty-seven commenters specifically offered support for narrowing the 5-percent limitation to cover only notes of liquidating credit unions for the reasons provided in the proposal. Three commenters suggested the proposed change will allow credit unions, possibly through CUSOs and other collaborations, to build strong relationships with fintech companies, giving FICUs more tools to allow them to be a part of the lending system as it has evolved with the use of technology.

Discussion

Given the strong support expressed by commenters, and the lack of objections, the Board is adopting the changes to § 701.23(b)(4) as proposed for the reasons discussed earlier and in the notice of proposed rulemaking.

Section 701.23(b)(5) Grandfathered Purchases

The final rule amends current § 701.23(b)(5) to broaden the grandfathering provision in paragraph (b)(5). Current § 701.23(b)(5) provides that, subject to safety and soundness considerations, an FCU may hold any of the loans described in paragraph (b)(2) of this section provided it was authorized to purchase the loan and purchased the loan before July 2, 2012. The Board believes the revisions made by this final rule will avoid placing undue burden on FCUs that were operating in compliance with the

[114] H.R. Rep. No. 1372 (May 9, 1968).

[115] Public Law 95–22 (approved Apr. 19, 1977).

[116] H.R. Rep. No. 95–23, at 16 (Feb. 22, 1977).

[117] *See,* for example, 123 Cong. Rec. H 1521–32, at H–1524 (Daily ed. March 1, 1977) (Describing the amendment as providing for the ''Purchase and sale of notes of members.''); H.R. Rep. No. 95–23, at 16 (Feb. 22, 1977) (also describing amendment as pertaining to the ''Purchase and sale of notes''); and *Statement of C. Austin Montgomery, Administrator, National Credit Union Administration Before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance Committee on Banking, Finance, and Urban Affairs, House of Representatives,* 95th Cong. 27 (1977) (''Temporary liquidity problems experienced by credit unions might be resolved by selling or pledging notes'').

[118] Scalia & Garner, *supra* note 7 at 64 (''[T]he purpose must be derived from the text, not from extrinsic sources such as legislative history or an assumption about the legal drafter's desires'').

existing rule and avoid disrupting the existing eligible obligations market by forcing widespread divestments of the eligible obligations currently held in FCU loan portfolios. While the grandfathering provision will allow FCUs to continue to hold eligible obligations that were purchased prior to the effective date of this rule, it does not exempt FCUs from conducting and updating risk assessments, establishing concentration limits, or monitoring the ongoing condition of an FCU's eligible obligation loan portfolio.

Accordingly, the final rule amends § 701.23(b)(5) to provide that, subject to safety and soundness considerations, an FCU may hold any of the loans described in paragraph (b) of this section that were acquired before the effective date of the final rule approved by the Board; provided the transaction complied with § 701.23 at the time the transaction was executed.

Public Comments

One commenter specifically offered support for the proposed revisions to § 701.23(b)(5). The commenter stated that FCUs that have operated in compliance with the recently expired § 701.23(i) and the NCUA's other regulatory requirements should not be forced to divest from their prudently purchased eligible obligations.

Discussion

Given the support expressed above, and the lack of objections, the Board is adopting the changes to § 701.23(b)(5) as proposed for the reasons set forth in the notice of proposed rulemaking.

New § 701.23(b)(6)

The final rule adds new paragraph (b)(6) to § 701.23, which sets forth basic due diligence, risk assessment, and risk management requirements that must be addressed in an FCU's internal written purchase policies.[119] An FCU's board of directors is responsible for planning, directing, and controlling the FCU's activities. To fulfill these duties, the board of directors must establish adequate policies to ensure the credit union operates safely and soundly and in compliance with applicable laws and regulations. The introductory paragraph to new § 701.23(b)(6) provides that the purchases of eligible obligations and notes of liquidating credit unions must comply with the purchasing FCU's internal written purchase policies, which must contain certain provisions.

The specific policy requirements, which are discussed in detail below, are part of the basic fiduciary responsibilities and duties required of boards of directors.[120] The requirements in the final rule address the basic elements necessary to administer a safe and sound loan purchase program.

As discussed previously, the Board is adding new requirements under § 701.23(b)(6) to mitigate the risk of removing certain regulatory limits on the purchase of loans by FCUs. The requirements are crafted to promote safe and sound loan purchase programs, which are intended to protect credit unions and the Share Insurance Fund. These requirements continue the Board's long-standing expectations for FCUs that purchase loans to appropriately identify and mitigate undue risk, while also providing FCUs greater flexibility to establish their own risk tolerance limits. These requirements are intended to mitigate unintended consequences related to the removal of the prescriptive requirements in current § 701.23(b)(2). The prescriptive requirements in current paragraph (b)(2), in some cases, resulted in FCUs managing their lending practices and balance sheets to regulatory restrictions instead of broader considerations for safe and sound lending practices.

The new requirements added by this final rule provide credit unions with expanded flexibility to develop loan purchase policies that are commensurate with the size, scope, type, complexity, and level of risk posed by the planned loan purchase activities. The new requirements are intended to provide principles-based requirements that are useful for credit unions of any size or complexity to implement the appropriate level of due diligence, risk assessment, and management.

When determining whether to start a loan purchase program and developing related written policies, credit unions should consider whether the loan purchase activities being contemplated are consistent with the FCU's overall business strategy and risk tolerances and financial and operational capabilities. Loan purchase, sale, or pledge activities that are inconsistent with the FCU's risk tolerance levels, represent undue risk in relation to the credit union's financial capacity, or beyond management's ability to manage can pose material risks to an FCU's financial or operational condition.

The risk management expectations outlined in this final rule reflect key components of long-standing supervisory expectations as communicated to credit unions through NCUA Letters to Credit Unions (LCU), Supervisory Letters, and the Examiner's Guide.

The Board requested comment on the following: (1) The new written purchase policy requirements in paragraph (b)(6) of the rule; (2) the principles-based due diligence, risk assessment, and risk management requirements and whether they are sufficient to offset the risk associated with removing the CAMELS rating and ''well capitalized'' requirements for a credit union to purchase and hold eligible obligations from a FICU; and (3) whether there are other principles-based safety and soundness or compliance criteria the Board should consider that would mitigate the risk of removing certain prescriptive requirements from the rule.

Public Comments

Several commenters offered general support for the proposed due diligence requirements. One commenter suggested that most, if not all, of these requirements are already done as a matter of course. Another commenter believed the proposed requirements will help limit prudential risks associated with FCUs' investments in eligible obligations in a safe and sound manner. In response to a question in the proposed rule preamble for commenters, one commenter stated that additional safety and soundness criteria (beyond those included in the proposed rule) would not be helpful or mitigate risk further. The commenter recommended, however, that the limits imposed under § 701.23 should be comparable to those imposed on loan participation transactions; for example, instituting a limit in line with the loan participation limit of an amount of net worth to one seller. The commenter suggested that this change would simplify any confusion for both buyers and sellers of eligible obligations and allow examiners to compare to a benchmark when reviewing credit unions who purchase eligible obligations. One commenter recommended that each safety and soundness standard adopted in the final rule be sufficiently flexible to permit credit unions to adopt internal written purchase policy provisions that are commensurate with the size, scope, type, complexity, and level of risk posed by their individual eligible obligation activities.

Several commenters provided thoughts and recommendations regarding specific proposed due diligence requirements. One commenter suggested that requiring written purchase policies and established portfolio concentration limits seems

[119] A credit union's written loan purchase policies may be incorporated into the written lending policies required under § 741.3(b)(2).

[120] *See* §§ 701.4(b)(4), 701.21(c)(2), and 741.3(b)(2).

prudent and valuable to ensure appropriate consideration by credit unions engaging in eligible obligation activity.

One commenter suggested that requiring a legal review of agreements seems unnecessary, as most credit unions already use legal counsel for the drafting or review of agreements, and those that do not perhaps have adequate internal expertise or expect to engage in a certain activity in such a modest way that it poses no material risk. The commenter suggested further that the requirement for legal review seems overly intrusive to a credit union's responsibility to understand and manage its risks. Another commenter recommended the NCUA further clarify the differences in what is required in the legal agreements for loan participations and eligible obligation purchases. The commenter noted that some of the requirements in the respective provisions (§ 701.22(d) for loan participation agreements and proposed new § 701.23(b)(6)(iv) for eligible obligation agreements) are similar and yet worded differently. The commenter provided as an example that the requirements in §§ 701.22(d)(4)(i) and 701.23(b)(6)(iv)(A) to identify the specific loans being purchased, and the requirement in the loan participation rule at § 701.22(d)(1) that the agreement be properly executed under applicable law, do not appear at all in the proposed eligible obligation rule's new language, although proposed § 701.23 does require a legal review of the eligible obligations purchase. To address these types of differences, the commenter recommended the following additions: (1) clarifying which of the loan participation agreement requirements also apply to eligible obligations (depending on whether servicing is retained or released) and (2) specifying whether there are additional (or fewer) obligations that apply to loan participations versus eligible obligations, including specifically what those differences are. To effectuate this change, the commenter recommended adding language to § 701.23(b)(6)(iv) as follows:

Require that the written purchase agreement include, in the case of a servicing released transaction:

The following requirements referenced in the loan participation rule (§ 701.22): [____].

The following additional requirements not referenced in the loan participation rule (§ 701.22): [____].

Require that the written purchase agreement include, in the case of a servicing retained transaction:

The following requirements referenced in the loan participation rule (§ 701.22): [____].

The following additional requirements not referenced in the loan participation rule (§ 701.22): [____].

One commenter suggested that partnering with responsible third parties is often what is most suitable for the credit union and their members. The commenter encouraged the NCUA to refresh its view on conflicts-of-interest and shift to something more like ''credit unions relying on third party underwriting performed by the seller or an agent of the seller could be operating in an unsafe and unsound manner and should establish and demonstrate clear risk management and oversight protocols.''

Discussion

In recognition of the general support from commenters for this proposed change, the Board is adopting the revisions as proposed for the reasons set forth in the notice of proposed rulemaking. The Board does not believe that performing a legal review of the written purchase or sales agreements is burdensome because, as noted by one commenter, most credit unions already carry out such reviews. Additionally, while legal reviews may need to be conducted to ensure that the legal and business interests of the credit union are protected against undue risk, the final rule does not specify when legal reviews are required, only that the credit union's internal written purchase policies must address when a legal review of agreements or contracts will be performed to ensure that the legal and business interests of the credit union are protected against undue risk. This requirement should be based on the results of the due diligence and risk assessment processes completed for the planned activity. The determination as to when such a legal review would be required should be commensurate with the size, scope, type, complexity, and level of risk posed by the planned activity covered by the written agreement and contract.

When it is decided that a legal review by counsel is required, the credit union's attorneys should review the written agreement or contract to ensure that its legal and business interests are protected. The review should include the terms, recourse and risk-sharing arrangements, loan administration and controls. The credit union's attorneys should also make sure the board of directors and management clearly understand the rights and responsibilities of each party. For example, the review should indicate which party bears the costs of collateral disposition, and whether there are recourse arrangements, or a commitment for the purchasing credit union to make additional loan purchases and describe the interest being purchased. The legal review should also ensure that the requirements for a written loan purchase agreement under section § 701.23 are adequately addressed and that the agreement complies with all state and federal laws. The legal review should address loan and collateral documentation and information that the seller is required to share with the purchasing credit union, status reports on payments and interest accrual, exit strategies or termination clauses, procedures for modifying loan terms, notification of adverse loan events, collection procedures if servicing rights are retained by the seller, turnover in key staff of the seller or servicer, and other provisions necessary to effectively manage credit risk.

The credit union's board of directors and senior management should exercise their right to negotiate the terms of any agreements or contracts to make them mutually fair and equitable. Further, a credit union should understand what actions it may take if the contract is breached, or the seller, any sub-servicers, or sub-contractors are not performing as expected. The written loan purchase agreement is a critical component of any third-party transaction or relationship, and thus, a legal review is a key element in the overall risk mitigation and management process.

New § 701.23(b)(6)(i)

New § 701.23(b)(6)(i) requires FCUs to perform due diligence on the seller, and any applicable counterparties, before purchasing an eligible obligation. Conducting due diligence on third parties is a long-standing expectation for credit unions engaging in third-party relationships and when introducing new loan programs and products, as noted in NCUA LCU 01–CU–20 (November 2001), NCUA LCU 08–CU–26 (November 2008), and NCUA LCU 10–CU–03 (March 2010).[121]

On several occasions, third-party relationships with credit unions have resulted in financial stress due to unexpected costs, legal disputes, and asset losses. Due diligence reviews are important because they assist credit unions in risk identification and mitigation when engaging with outside parties in a new loan program and when

[121] *Available at https://ncua.gov/regulation-supervision/letters-credit-unions-other-guidance.*

enhancing services to members. Failure to complete adequate due diligence can result in the acquisition of loan volumes that exceed the board's risk appetite or credit union's financial capacity, loan types that go beyond management's ability to manage, or loan types or volume that exceed the capabilities of current loan processing and management information systems. The use of third parties can add complexity and additional risk to a credit union's activities and may also expose the credit union to consumer compliance and other legal risks. For example, failure to conduct adequate due diligence could lead to an FCU entering into agreements with a third party that does not have the ability to fulfill its contractual obligations. This could lead to disruptions in member service, uncollected payments on loans, and potential losses if the third party fails to remit funds that are due to the purchasing FCU.

The responsibility to perform appropriate due diligence remains with the FCU's board of directors and management and cannot be outsourced. Overreliance on the due diligence information provided by a third party without independent review by the FCU's board and management could result in unsafe and unsound practices.

The final rule allows FCUs the flexibility to determine the level and depth of due diligence reviews that are necessary based on the level of risk posed by the loans being purchased and the third-party relationships. Several factors may be considered when determining the appropriate nature of due diligence for third-party loan purchases and programs, including the following:

- the transaction's complexity;
- the purchasing FCU's internal lending policies and procedures;
- the transaction's size relative to the FCU's existing loan portfolio, concentrations, and net worth level; and
- the purchasing FCU's management and staff expertise regarding the types of loans being purchased.

Additionally, FCUs can take a tiered approach when establishing their due diligence processes in their loan purchase policies. For example, when conducting background checks the FCU can determine how best to assess a third party's business reputation, potential conflicts of interest, experience, and compliance with federal and state laws, rules, and regulations based on the type of relationship with the third party and its risk exposure.

Accordingly, new § 701.23(b)(6)(i) provides that the purchasing FCU's written purchase policy must require that the purchasing FCU conduct due diligence on the seller of the loans and other counterparties to the transaction prior to the purchase.

New § 701.23(b)(6)(ii)

New § 701.23(b)(6)(ii) requires FCUs to establish risk assessment and risk management processes for purchase activities. Conducting risk assessments and implementing risk management processes reflect the NCUA's long-standing expectation that credit unions incorporate these activities in relationships with third parties as outlined in NCUA LCU 07–CU–13 (April 2008), Evaluating Third-Party Relationships; NCUA LCU 22–CU–05 (March 2022), CAMELS Rating System; and NCUA Letter to FCUs 02–FCU–09 (March 2002), Risk-Focused Examination Program.[122] The purchase of loans can provide an FCU with a wide range of benefits, including achieving strategic loan growth, managing liquidity, adjusting risk exposures, and enhancing the services provided to members. However, an FCU that starts a new lending program, including the purchase or sale of loans, or engages with third parties without fully understanding the associated risks, may expose itself to credit, interest rate, liquidity, transaction, compliance, strategic, or reputation risk. Risk assessments allow credit unions to better understand the risk involved in new products and services to ensure the board has effective processes in place to control the risk. Not understanding these associated risks may result in the FCU operating outside of the board's risk appetite and can result in elevated risk to the Share Insurance Fund. FCUs are ultimately responsible for safeguarding member assets and ensuring sound operations.

Adequate risk management processes include ongoing monitoring and oversight of the loan purchase program. This includes formal reporting to the board of directors and the FCU's senior management, which will ensure the board is able to fulfill its duties. An FCU's management reporting should be timely and commensurate with the size, complexity, and risk exposure of the FCU. For example, the board of directors should be informed when targets are met or exceeded, or limits breached. Reports should also consist of appropriate information that the board of directors and management could use to make informed decisions and take timely corrective action when warranted. For effective governance, an FCU's board of directors and senior management must understand the nature and level of risk associated with the FCU's purchased loan portfolio and program and receive periodic updates and reports on its performance.

The final rule provides FCUs the flexibility to tailor their risk assessment and management processes to fit within their governance framework and other operations, while providing a basic framework to follow when developing their initial and ongoing risk assessment and management processes. Accordingly, new § 701.23(b)(6)(ii) provides that the purchasing FCU's internal written purchase policies must establish risk assessment and risk management process requirements that are commensurate with the size, scope, type, complexity, and level of risk posed by the planned loan purchase activities.

New § 701.23(b)(6)(iii)

New § 701.23(b)(6)(iii) requires FCUs to establish certain internal underwriting and ongoing monitoring standards for eligible obligation purchase activities. Underwriting is the foundation of lending. Without ensuring that underwriting standards are in place that adequately address how to analyze a borrower's ability to repay their debt, the board will not be able to fulfill its responsibilities for the safety and soundness of the FCU's lending activities. By this same logic, the board must also monitor the level of credit risk within the credit union's loan portfolio. Changing economic conditions at the local, regional, or national level can materially impact the likelihood that the credit union's outstanding loans are repaid. For example, the closure of a local business that is a large employer of the credit union's members could significantly change the risk profile of the credit union's loan portfolio. Changing levels of credit risk within the FCU's existing loan portfolio (including eligible obligations) may necessitate strategic changes or mitigating actions. If the level of credit risk begins to exceed the board's risk appetite, then risk exposures may need to be adjusted. Depending on the circumstances, this could include, but is not limited to, restricting the purchase of new eligible obligations, implementing more conservative underwriting standards, or potentially divesting parts of the existing loan portfolio.

The FCU's internal policies must address the level of underwriting to be performed for the purchase of loans. Underwriting should identify all risks that could materially influence the purchasing FCU's decision to proceed with a loan purchase. Appropriate

[122] *Available at https://ncua.gov/regulation-supervision/letters-credit-unions-other-guidance.*

underwriting standards that adequately address how to analyze a borrower's ability to repay their loan and the support provided by collateral are a basic tenet of lending and help ensure that the FCU will be repaid, which protects its members and the Share Insurance Fund. Without appropriate underwriting standards, an FCU will not be able to accurately assess its risk of credit loss. Originating or purchasing loans to high credit risk borrowers without appropriately understanding and planning for that risk can result in unexpectedly high loss rates that negatively impact earnings and net worth, which may impair the viability of the credit union and pose a risk to the Share Insurance Fund. A lack of adequate underwriting standards can also result in adverse risk selection, whereby high credit risk borrowers are only able to obtain loans from institutions with lax underwriting, resulting in the FCU attracting borrowers with a much higher risk of default.

An FCU engaging in loan purchases should conduct an independent credit analysis and assessment of the borrower's creditworthiness and ability-to-repay, the support provided by collateral if relied on as part of the credit decision, and changes to the risk profile of the purchased loans. A purchasing FCU should not rely on the underwriting and analysis performed by the seller, or work performed by other third-party underwriters on behalf of a seller. To do so is an unsafe and unsound practice.

An FCU can leverage its current internal underwriting policies for similar loan types when developing its loan purchase policies. Performing credit and collateral analysis as if it were the originator should result in purchased loans that are consistent with the board of director's overall business strategy, risk tolerances, and credit quality standards. To the extent a purchasing FCU relies on a third party's credit models for credit decisions, the purchasing FCU should perform due diligence on the credit model. An FCU is not prohibited from relying on a qualified and independent third party to perform model validation. However, the purchasing FCU should review the model validation to determine if it is sufficient.

The purchasing FCU's internal loan purchase policies should outline and identify the loan types that are acceptable for purchase. For example, acceptable loan types could include residential real estate (one-to-four family or multi-family first lien and/or junior lien), solar loans, automobile loans, student loans, unsecured loans, out-of-territory loans, commercial loans, or government guaranteed loans (guaranteed and/or unguaranteed portion).

The loan purchase policy should address the level and depth of the underwriting and analysis that is required for loan purchase activities based on the specific loan category, type, size, complexity, and risk profile of the borrower. The proposed rule allows flexibility to establish those parameters, while providing a basic framework for FCUs to follow when developing their policies.

Accordingly, new § 701.23(b)(6)(iii) provides that the purchasing FCU's internal written purchase policies must establish underwriting and ongoing monitoring standards that are commensurate with the size, scope, type, complexity, and level of risk posed by the loan purchase activities. Amended paragraph (b)(6)(iii) would provide further that underwriting and ongoing monitoring standards must address the borrower's creditworthiness and ability to repay, and the support provided by collateral if the collateral was used as part of the credit decision.

New § 701.23(b)(6)(iv)

New § 701.23(b)(6)(iv) provides that the purchasing FCU's internal written purchase policy must require that the written purchase agreements include certain language. A well-written loan purchase agreement can minimize conflicts between the FCU and other parties to the agreement. The Board believes that any written loan purchase agreement must clearly delineate the roles, duties, and obligations of the seller, the purchasing FCU, servicer, and any other parties associated with the agreement, as applicable. The final rule establishes minimum provisions that any well-written loan purchase agreement must address.

The written loan purchase agreement is a critical component of any third-party relationship. In addition to establishing the rights and obligations of each party to the loan agreement, it should clearly address how the relationship operates. The written loan purchase agreement should fully describe the roles and responsibilities of all parties to the agreement, including any subcontractors. A well-written loan purchase agreement should address dispute resolution, requirements for any ongoing credit information if necessary for the loan type, remedies upon loan default and bankruptcy, which party bears the costs of collateral disposition, whether there are recourse arrangements for early pay-off, and if there is an obligation for the purchasing FCU to make any additional purchases or credit advances.

The purchasing FCU's board of directors and senior management should understand that they may have limited control over credit decisions for loans purchased in part, including, for example, limitations on the ability of the purchasing FCU to participate in loan modifications, act on defaulted loans, or decline to make additional advances if the purchasing FCU deems such advances are not prudent in relation to the loan quality. The written loan agreement must address these circumstances, and other conditions under which the parties to the agreement may replace the servicer if services are not performed in accordance with the terms of the written loan purchase agreement. The purchasing FCU must also know the location and custodian for the original loan documents if the original loan documents are not required to be transferred to the purchasing FCU as part of the loan purchase transaction. The purchasing FCU could be required to provide the original loan documents to various parties involved in the administration and collection of the purchased loans. Therefore, the purchasing FCU needs to know where the original documents are located and whom to contact if the FCU needs to obtain the documents.

The written loan purchase agreement must, prior to the loan purchase transaction, identify the specific loan or loans purchased, and the interest purchased. A loan purchase transaction may involve a single or multiple loans, purchased in whole or in part. The documentation, for example, can be as simple as an addendum or schedule identifying each loan, provided the addendum or schedule is incorporated by reference into the loan purchase agreement. This provision clarifies in the existing rule that the loan purchase transaction involves the purchase of an individual loan or loans, and it is not the purchase of an investment interest in a pool of loans. FICUs should also keep in mind the requirements under GAAP for participation interests, which were discussed earlier in the part of the preamble about the changes to § 701.23(a).

Accordingly, for the reasons outlined in this portion of the preamble, new § 701.23(b)(6)(iv) provides that the purchasing FCU's internal written purchase policy must require that the written purchase agreement include the specific loans purchased (either directly in the agreement or through a document that is incorporated by reference into

the agreement); the location and custodian for the original loan documents; an explanation of the duties and responsibilities of the seller, servicer, and all parties with respect to all aspects of the loans being purchased, including servicing, default, foreclosure, collection, and other matters involving the ongoing administration of the loans, if applicable; and the circumstances and conditions under which the parties to the agreement may replace the servicer when the seller retains the servicing rights for the loans being purchased, if applicable.

New § 701.23(b)(6)(v)

New § 701.23(b)(6)(v) requires that FCUs establish certain portfolio concentration limits. Excessive concentration risk can severely impact the financial condition of an FCU. High concentrations in areas experiencing economic distress could result in significant losses exceeding an FCU's net worth. An FCU's board of directors and senior management have the responsibility to identify, manage, monitor, and control the risks facing the FCU, including concentration risk. FCU management must know what their concentration risks are and be able to demonstrate appropriate risk management and mitigation practices to minimize the risk of significant financial condition decline. Accordingly, new § 701.23(b)(6)(v) provides that a purchasing FCU's internal written purchase policies must establish portfolio concentration limits by loan type and risk category in relation to net worth that are commensurate with the size, scope, and complexity of the credit union's loan purchases. New paragraph (b)(6)(v) provides further that the policy limits must consider the potential impact of loan concentrations on the purchasing credit union's earnings, loan loss reserves, and net worth.

An FCU's loan purchase policy should establish credit underwriting and administration requirements that address the risks and characteristics unique to the loan types permitted for purchase. An FCU's loan purchase policy concentration limits should be considered for the aggregate amount of total purchased loans, for each loan type, risk factor, or category permitted. For example, concentration limits can be set by loan or collateral type but may also be set by associated borrower, origination channel, geographic area, or other risk category as applicable.

An FCU's board of directors should establish concentration risk limits commensurate with its net worth levels and consider how the limits fit into the overall strategic plan of the FCU. When credit union loan portfolios are concentrated in a small number of loan products that are significantly exposed to similar or correlated risk factors, a single event can impact a large portion of the loan portfolio and result in elevated losses that, if not managed appropriately, can lead to the credit union's failure. Since the year 2000, more than 50 percent of the NCUA's postmortems and material loss reviews have cited concentration risk as a central component of credit union failures. An FCU's board of directors should use a comprehensive perspective when developing loan purchase concentration policy limits, including identifying outside forces (such as economic or housing price uncertainty) that would affect the ability to manage concentration risk. The parameters set by the board of directors should be specific to each portfolio and should include limits on loan types and third-party relationship exposure, at a minimum. The concentration risk limits should correlate to the FCU's overall growth objectives, financial targets, and net worth plan. The concentration risk limits set forth in the FCU's policy should be closely linked to those codified in related policies, including, but not limited to, real estate loans, member business loans, asset/liability management, and investment policies. Concentrations that exceed net worth must be monitored carefully, and the board of directors should document an adequate rationale for undertaking that level of risk.[123]

New § 701.23(b)(6)(vi)

New § 701.23(b)(6)(vi) addresses when a legal review of agreements or contracts would be required. The written loan purchase agreement is a critical component of the third-party relationship and, as such, the requirement for a legal review is a key element in the overall risk mitigation and management process. By obtaining legal advice regarding third-party contracts, an FCU can ensure its legal and business interests are appropriately protected, and the board of directors and senior management understand the risks, rights, and responsibilities of each party to the written loan purchase agreement. Accordingly, new § 701.23(b)(6)(vi) provides that an FCU's internal written purchase policy must address when a legal review of agreements or contracts will be performed to ensure that the legal and business interests of the credit union are protected against undue risk.

A legal review of the written loan purchase agreements and contracts will help an FCU ensure that the board of directors and senior management understand the rights and responsibilities of each party. For example, the review could identify which party bears the costs of collateral disposition, whether there are recourse arrangements, or whether the agreement includes a commitment for the purchasing FCU to make additional loan purchases and describe the interest being purchased. A legal review may also reduce a credit union's legal, compliance, or reputation risk by ensuring that the written loan purchase agreement complies with all applicable state and federal laws.

Further, an FCU should understand what actions it may take if the contract is breached or services are not performed as expected. For example, the legal review could determine if the written loan purchase agreements include recourse language that requires a seller to buy back loans with missing documents, made outside of policy, or otherwise not in conformance with representations and warranties. The written loan purchase agreement is a critical component of the third-party relationship and, as such, a legal review is a key element in the overall risk mitigation and management process.

Section 701.23(c) Sale

The final rule makes a non-substantive conforming change to current § 701.23(c)(1). In addition, the final rule makes certain substantive changes to paragraph (c)(2) and adds new paragraphs (c)(3) and (4), which are discussed in more detail in the following paragraphs. No changes are made in the introductory sentence to current § 701.23(c).

Section 701.23(c)(1)

As required by the changes discussed in the following paragraphs, the final rule makes a conforming amendment to current § 701.23(c)(1). The conforming amendment removes the ''and'' at the end of the provision to allow for an additional provision to be added under § 701.23(c)(2). No substantive change to this provision is intended.

Public Comments

One commenter recommended amending proposed § 701.23(c)(1) to provide that ''the Board or a committee of the Board assigned with that responsibility by the Board approves the sale.'' The commenter suggested it is not

[123] *See* attachment to NCUA Letter to FICUs 10–CU–03 (March 2010) available at *https://www.ncua.gov/files/letters-credit-unions/LCU2010-03Encl.pdf.*

necessarily an investment committee that would normally be dealing with loan issues—indeed, an overarching asset liability management committee, or a lending committee, or an executive committee, could each be tasked with such a role as within their core activities and competencies—and various institutions use different names for their committees, and the reference to ''investment committee'' is highly specific.

Discussion

The Board did not propose substantive changes to § 701.23(c)(1), so the changes suggested above would go beyond the scope of this rulemaking. The comments will be retained, however, for consideration in future rulemakings related to § 701.23. Accordingly, the Board adopts the changes to paragraph (c)(1) as proposed for the reasons set forth in the notice of proposed rulemaking.

Section 701.23(c)(2)

The final rule amends current § 701.23(c)(2) to change the retention requirements for the written agreement and schedule of eligible obligations sold by an FCU. The Board believes that this would result in only a minor technical change to current § 701.23(c)(2). Under the final rule, the FCU selling the eligible obligations will still be required to retain the written loan sales agreement and a schedule of the eligible obligations covered by the agreement. The Board acknowledges the requirement for the FCU to retain the written loan sales agreement and schedule of the eligible obligations in the seller's office could imply that the written loan sales agreement and schedule be retained in a hard-copy format, which is outdated given the current digital environment. An FCU might choose to store its records in electronic format, in the cloud, or housed in off-site servers or databases.

This change will align § 701.23(c)(2) with the NCUA's regulations and guidelines for FICUs on records preservation programs. Under part 749, the NCUA does not require or recommend a particular format for record retention. If the credit union stores records on microfilm, microfiche, or in an electronic format, the stored records must be accurate, reproducible, and accessible to an NCUA examiner.[124] If records are stored on the credit union premises, they should be immediately accessible upon the examiner's request; if records are stored by a third party or off site, then they should be made available to the examiner within a reasonable time after the examiner's request. The credit union must maintain the necessary equipment or software to permit an examiner to review and reproduce stored records upon request. The credit union should also ensure that the reproduction is acceptable for submission as evidence in a legal proceeding.[125] Accordingly, § 701.23(c)(2) of the final rule provides that a written agreement, and a schedule of the eligible obligations covered by the agreement, is retained by the selling credit union that identifies the specific loans being sold either directly in the agreement or through a document that is incorporated by reference into the agreement.

New § 701.23(c)(3)

The final rule adds new paragraph (c)(3) to § 701.23 to require a legal review of the written agreement to protect the legal and business interests of the selling FCU. A legal review of the written loan sales agreements and contracts will help an FCU ensure that the board of directors and senior management understand the rights and responsibilities of each party. For example, the legal review would make clear which party bears the costs of collateral disposition, whether there are recourse arrangements, whether the agreement includes a commitment for the purchasing credit union to make additional loan purchases, and whether the agreement describes the interest being purchased. The legal review would also ensure that the written loan sales agreement complies with all applicable state and federal laws, helping to minimize a credit union's legal, compliance, and reputation risk. The legal review should address loan and collateral documentation and information that the selling party is required to share with the purchasing party, status reports on payments and interest accrual, exit strategies, procedures for modifying loan terms, notification of adverse loan events, and collection procedures if servicing rights are retained by the seller. Further, an FCU should understand what actions it may take if the contract is breached or services are not performed as expected. The written loan sales agreement is a critical component of the third-party relationship and, as such, the requirement for a legal review is a key element in the overall risk mitigation and management process.

Accordingly, new § 701.23(c)(3) requires a legal review of the written agreement is completed that includes the terms, recourse, and risk-sharing arrangements, and, as applicable, loan administration and controls, to ensure that the selling FCU's legal and business interests are protected from undue risks.

Public Comments

One commenter noted their support for the proposed legal review requirement in § 701.23(c)(3) regarding the sale of eligible obligations for the reasons provided in the proposal. Another commenter suggested that requiring a legal review of agreements seems unnecessary, as most credit unions already use legal counsel for the drafting or review of agreements, and those that do not perhaps have adequate internal expertise or expect to engage in a certain activity in such a modest way that it poses no material risk. The commenter suggested further that the requirement for legal review seems overly intrusive to a credit union's responsibility to understand and manage its risks.

Discussion

In response to comments received, the Board is adopting the changes to § 701.23(c)(3) as proposed, for the reasons set forth in the notice of proposed rulemaking, with one amendment. After reviewing the comments, the Board agrees that there may be types of routine agreements that do not require legal review by an attorney and that FCUs should be responsible for understanding and managing their own risks. In recognition of this, the final rule removes the word ''legal'' the first place it appears in proposed § 701.23(c)(3). This change allows FCUs to determine, consistent with safety and soundness, what level of review is required to *ensure* that the selling FCU's legal and business interests are protected from undue risks. For example, for most complex transactions FCUs must perform a legal review of the agreements because only a qualified attorney can reasonably ensure that the selling FCU's legal and business interests are protected in such situations. On the other hand, for routine transactions involving simple agreements, review by a non-attorney member of the FCU's staff may be all that is necessary to ensure that the selling FCU's legal and business interests are protected. Accordingly, § 701.23(c)(3) of the final rule requires that a review of the written agreement is completed that includes the terms, recourse, and risk-sharing arrangements, and, as applicable, loan administration

[124] *See* 12 CFR 749.5.

[125] *See generally* part 749; *and* NCUA Legal Op. 07–0812 (Jan. 2008), *available at https://www.ncua.gov/regulation-supervision/legal-opinions/2008/electronic-retention-records.*

and controls, to ensure that the selling FCU's legal and business interests are protected from undue risks.

Section 701.23(d) Pledge

The final rule amends current § 701.23(d)(1)(iii) to amend the retention requirements for agreements covering eligible obligations pledged by an FCU. The Board believes that this will result in only a minor technical change to current § 701.23(d)(1)(iii). Under the final rule, the FCU pledging the eligible obligations would still be required to retain the written agreement covering the pledging arrangement. The Board acknowledges the requirement for the FCU that pledges the eligible obligations to retain the written agreement in the office could imply that the written agreement should be retained in a hard-copy format, which is outdated given the current digital environment. An FCU might choose to store its records in electronic format, in the cloud, or housed in off-site servers or databases. The Board's intent is that the FCU that pledges the eligible obligations make the written agreement covering the pledging arrangement available upon request.[126]

This change will align this requirement with the NCUA's regulations and guidelines for FICUs on records preservation programs. Under part 749, the NCUA does not require or recommend a particular format for record retention. If the credit union stores records on microfilm, microfiche, or in an electronic format, the stored records must be accurate, reproducible, and accessible to an NCUA examiner.[127] If records are stored on the credit union premises, they should be immediately accessible upon the examiner's request; if records are stored by a third party or off site, then they should be made available to the examiner within a reasonable time after the examiner's request. The credit union must maintain the necessary equipment or software to permit an examiner to review and reproduce stored records upon request. The credit union should also ensure that the reproduction is acceptable for submission as evidence in a legal proceeding.[128]

Accordingly, § 701.23(d)(1)(iii) of the final rule requires that a written agreement covering the pledging arrangement is retained by the credit union that pledges the eligible obligations.

Section 701.23(g) Payments and Compensation

The final rule amends current § 701.23(g) by adding a paragraph heading. The Board believes that this amendment will result in only a minor technical change to paragraph (g). The amended rule would add the three-word descriptive heading ''*Payments and compensation*'' for this section of the rule but does not add any additional requirements or make any other changes. Accordingly, § 701.23(g) has the paragraph heading ''*Payments and compensation.*''

Section 701.23(i) Temporary Regulatory Relief in Response to COVID–19

The final rule does not extend the regulatory relief in § 701.23(i) that the Board approved in April of 2020 in response to COVID–19. Paragraph (i) provided that, notwithstanding § 701.23(b), during the period commencing on April 21, 2020, and *concluding on December 31, 2022,* an FCU may: purchase, in whole or in part, and within the limitations of the board of directors' written purchase policies, any eligible obligations pursuant to paragraph (b)(1)(i) and (b)(2)(i) without regard to whether they are loans the credit union is empowered to grant or are refinancing to ensure the obligations are ones the purchasing credit union is empowered to grant; and purchase and hold the obligations described in § 701.23(b)(2)(i) through (iv) if the FCU's CAMELS composite rating is ''1,'' ''2,'' or ''3.'' [129] This temporary relief sunset on December 31, 2022, and was removed from the NCUA's regulations by the Office of the Federal Register shortly thereafter as part of their regular editing and review process.

Public Comments

One commenter recommended the NCUA study the extent to which the flexibility provided in the expired temporary regulatory relief was used by credit unions, along with any increased risk associated with transactions made that would not otherwise have been permitted and consider providing such regulatory relief to address future system challenges that may not necessarily rise to the level of the COVID–19 pandemic.

Discussion

The Board appreciates the comments that were submitted regarding expiration of the temporary regulatory relief under § 701.23(g). The temporary regulatory relief provided under paragraph (g) expired on December 31, 2022. The Board will consider approving temporary regulatory relief again in the future if circumstances warrant.

B. Part 714—Leasing

Section 714.2(b)

In the proposal, the Board requested comment on the placement of the definition of indirect leasing arrangement in § 701.21, as opposed to part 714 of the NCUA's regulations. In particular, the Board requested comments on whether stakeholders would find it clearer or more user-friendly to codify the definition of indirect leasing arrangement in part 714. The Board received no comments directly in response to this question.

Although not raised by commenters, the Board believes the relationship between the indirect leasing provisions in § 701.21 and part 714 should be clarified by pointing out the relationship between the two sections to readers of part 714. To do this, the final rule adds brief language and a cross citation to the first sentence in § 714.2(b) pointing readers to § 701.21(c)(9) and helping them to make the connection between the two sections. No substantive change to the NCUA's regulations is intended by adding this clarifying cross citation. Accordingly, the first sentence in § 714.2(b), as amended, provides that an FCU may engage in indirect leasing as described under § 701.21(c)(9) of the NCUA's regulations.

Section 714.9 [Removed and Reserved]

Current § 714.9 provides that the indirect leasing arrangements of an FCU are not subject to the eligible obligation limit if they satisfy the provisions of § 701.23(b)(3)(iv) that require that FCUs make the final underwriting decision and that the lease contract is assigned to the FCU very soon after it is signed by the member and the dealer or leasing company. The reference in current § 714.9 cites to § 701.23(b)(3)(iv), but there is no paragraph (b)(3)(iv) in that section. It is clear from the ''eligible obligations limit'' language in current § 714.9, however, that the cross citation is intended to reference the exclusion from the 5-percent limitation in current § 701.23(b)(4)(iv). Because this final rule amends § 701.23(b)(4) to remove paragraph (b)(4)(iv) and will no longer apply the 5-percent limitation to any purchases of eligible obligations, as explained earlier in the preamble, current § 714.9 is rendered moot by this final rule. Accordingly, this final rule removes the language in current § 714.9

[126] *See* § 749.2.

[127] *See* 12 CFR 749.5.

[128] *See generally* part 749; *and* NCUA Legal Op. 07–0812 (Jan. 2008), *available at https://www.ncua.gov/regulation-supervision/legal-opinions/2008/electronic-retention-records.*

[129] Emphasis added.

and reserves the blank section for future use.

IV. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a final rulemaking, an agency prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of the final rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include credit unions with assets less than $100 million) [130] and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

The Board fully considered the potential economic impact of the changes made by this final rule during its development. As noted in the preamble, the final rule clarifies the NCUA's current regulations and provides additional flexibilities to FICUs, making it easier to take advantage of advanced technologies and opportunities offered by the fintech sector.

The final rule does not impose any new significant burden on FICUs and may ease some existing requirements. Small FICUs are not obligated to buy and sell eligible obligations and loan participations. Additionally, while the final rule introduces risk management and due diligence policy expectations, FICUs have the flexibility to tailor required processes and policies to fit within their existing governance framework and commensurate with their size and complexity. Accordingly, the NCUA certifies that this final rule will not have a significant economic impact on a substantial number of small FICUs.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.[131] For purposes of the PRA, a paperwork burden may take the form of a reporting, disclosure, or recordkeeping requirement, each referred to as an information collection. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The rule as previously published contains information collections in the form of a written policy requirement and a transaction documentation requirement, covered by OMB control numbers 3133–0127 (Purchase, Sale, and Pledge of Eligible Obligations) and 3133–0141(Organization and Operations of Federal Credit Unions—Loan Participation). The proposed changes to part 701 did not affect the burdens under OMB Control Numbers 3133–0127 and 3133–0141. Adjustments to the burdens reflect a reduction in the current number of credit unions or to reflect a more accurate response rate per respondent. Under OMB Control Number 3133–0127, the number of respondents decreased; thereby, decreasing the burden to 1,830 annual hours. The NCUA estimates that the burden will increase, however, under OMB Control Number 3133–0141 by 4,994 annual burden hours because the responses per respondent will likely increase.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the principles of the executive order to adhere to fundamental federalism principles. This final rule would reduce regulatory burdens on, and expand the authority of, federally insured credit unions, including federally insured, state-chartered consumer credit unions to purchase certain loans and loan participations. It may have, to some degree, a direct effect on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. It does not, however, rise to the level of material impact for purposes of Executive Order 13132.

Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act (Congressional Review Act)

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) generally provides for congressional review of new agency rules that qualify as ''major'' under criteria specified in the Act.[132] Analysis performed by the Office of the Chief Economist (OCE) at NCUA indicates the rule falls well short of qualifying as a ''major'' by those criteria. As required by SBREFA, the NCUA is submitting this final rule and its economic impact analysis to the Office of Management and Budget for concurrence on the ''not major'' determination. The NCUA also will file all other appropriate congressional reports.

List of Subjects

12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Insurance, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Signs and symbols, Surety bonds.

12 CFR Part 714

Credit unions, Leasing, Reporting and recording keeping requirements.

By the National Credit Union Administration Board on September 21, 2023.

Melane Conyers-Ausbrooks,

Secretary of the Board.

For the reasons discussed in the preamble, the Board amends 12 CFR parts 701 and 714 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

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

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

■ 2. Amend § 701.21 by adding paragraph (c)(9) to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(c) * * *

(9) *Indirect lending and indirect leasing arrangements*—(i) *Definitions.*

[130] *See* 80 FR 57512 (Sept. 24, 2015).

[131] 44 U.S.C. 3507(d).

[132] 5 U.S.C. 801–804.

For purposes of this chapter, the following definitions apply:

Indirect leasing arrangement means a written agreement to purchase leases from the leasing company where the purchaser makes the final underwriting decision, and the lease agreement is assigned to the purchaser very soon after it is signed by the member and the leasing company.

Indirect lending arrangement means a written agreement to purchase loans from the loan originator where the purchaser makes the final underwriting decision regarding making the loan, and the loan is assigned to the purchaser very soon after the inception of the obligation to extend credit.

(ii) *Indirect lending.* A loan acquired pursuant to an indirect lending arrangement, and that meets the requirements of this section, is classified as a loan and not the purchase of a loan for purposes of this chapter.

(iii) *Indirect leasing.* A lease acquired pursuant to an indirect leasing arrangement, and that meets the requirements of part 714 of this chapter, is classified as a lease and not the purchase of a lease for purposes of this chapter.

* * * * *

■ 3. Amend § 701.22 by:

■ a. Revising the introductory text; and

■ b. Revising the definition of ''Originating lender'' in paragraph (a).

The revisions read as follows:

§ 701.22 Loan participations.

This section applies only to loan participations as defined in paragraph (a) of this section. It does not apply to the purchase of an investment interest in a pool of loans. This section establishes the requirements a federally insured credit union must satisfy to purchase a participation in a loan. Federally insured, state-chartered credit unions are required by § 741.225 of this chapter to comply with the loan participation requirements of this section. This section does not apply to corporate credit unions, as that term is defined in § 704.2 of this chapter.

(a) * * *

Originating lender means the participant with which the borrower initially or originally contracts for a loan and who, thereafter or concurrently with the funding of the loan, sells participations to other lenders. Originating lender includes a participant that acquires a loan through an indirect lending arrangement as defined under § 701.21(c)(9).

* * * * *

■ 4. Amend § 701.23 by:

■ a. Revising the introductory text, paragraph (a), the heading to paragraph (b);

■ b. Adding a heading to paragraph (b)(1) and (b)(1)(i);

■ c. Revising paragraph (b)(1)(ii);

■ d. Adding a heading to paragraphs (b)(1)(iii) and (iv);

■ e. Removing the word ''mortage'' from the first sentence in paragraph (b)(1)(iv) and adding in its place the word ''mortgage'';

■ f. Revising paragraphs (b)(2) introductory text, and (b)(2)(ii);

■ g. Adding a heading to paragraph (b)(3);

■ h. Revising paragraph (b)(3)(ii), and (b)(4) and (5);

■ i. Adding paragraph (b)(6);

■ j. Revising paragraphs (c)(1) and (2);

■ k. Adding paragraph (c)(3);

■ l. Revising paragraph (d)(1)(iii); and

■ m. Adding a heading to paragraphs (g) and (h)(1). The revisions and additions read as follows:

§ 701.23 Purchase, sale, and pledge of loans.

This section governs a Federal credit union's purchase, sale, or pledge of all or part of a loan to one of its own members, subject to certain exceptions. For purchases of eligible obligations, except as otherwise described under paragraph (b) of this section, the borrower must be a member of the purchasing Federal credit union before the purchase is made.

(a) *Definitions.* For purposes of this section:

Eligible obligation means a whole loan or part of a loan (other than a note held by a liquidating credit union) that does not meet the definition of a loan participation under § 701.22(a).

Liquidating credit union means:

(i) In the case of a voluntary liquidation, a credit union is a liquidating credit union as of the date the members vote to approve liquidation.

(ii) In the case of an involuntary liquidation, a credit union is a liquidating credit union as of the date the board of directors is served an order of liquidation issued by either the NCUA or the state supervisory authority.

Student loan means a loan granted to finance the borrower's attendance at an institution of higher education or at a vocational school, which is secured by and on which payment of the outstanding principal and interest has been deferred in accordance with the insurance or guarantee of the Federal Government, of a state government, or any agency of either.

(b) *Purchase of loans.* (1) *Purchase of obligations from any source.* * * *

(i) *Eligible obligations.* * * *

(ii) *Notes of a liquidating credit union's individual members.* Notes of a liquidating credit union's individual members, from the liquidating credit union;

(iii) *Student loans.* * * *

(iv) *Real estate-secured loans.* * * *

* * * * *

(2) *Purchases of obligations from a FICU.* A Federal credit union may purchase and hold the following obligations, provided that it would be empowered to grant them:

* * * * *

(ii) *Notes of a liquidating credit union.* Notes of a liquidating credit union, without regard to whether they are notes of the liquidating credit union's members;

* * * * *

(3) *Other requirements.* * * *

(ii) A written agreement and a schedule of the eligible obligations covered by the agreement are retained by the purchaser; and

* * * * *

(4) *Five-percent limitation.* The aggregate of the unpaid balance of notes purchased under paragraphs (b)(1)(ii) and (b)(2)(ii) of this section shall not exceed 5 percent of the unimpaired capital and surplus of the purchaser.

(5) *Grandfathered purchases.* Subject to safety and soundness considerations, a Federal credit union may hold any of the loans described in paragraph (b) of this section that were acquired before October 30, 2023; provided the transaction complied with this section at the time the transaction was executed.

(6) *Written purchase policies.* Purchases of eligible obligations and notes of liquidating credit unions must comply with the purchasing Federal credit union's internal written purchase policies, which must:

(i) Require that the purchasing Federal credit union conduct due diligence on the seller of the loans and other counterparties to the transaction prior to the purchase.

(ii) Establish risk assessment and risk management process requirements that are commensurate with the size, scope, type, complexity, and level of risk posed by the planned loan purchase activities.

(iii) Establish internal underwriting and ongoing monitoring standards that are commensurate with the size, scope, type, complexity, and level of risk posed by the loan purchase activities. Underwriting and ongoing monitoring standards must address the borrower's creditworthiness and ability to repay, and the support provided by collateral if the collateral was used as part of the credit decision.

(iv) Require that the written purchase agreement include:

(A) The specific loans being purchased (either directly in the agreement or through a document that is incorporated by reference into the agreement);

(B) The location and custodian for the original loan documents;

(C) An explanation of the duties and responsibilities of the seller, servicer, and all parties with respect to all aspects of the loans being purchased, including servicing, default, foreclosure, collection, and other matters involving the ongoing administration of the loans, if applicable; and

(D) The circumstances and conditions under which the parties to the agreement may replace the servicer when the seller retains the servicing rights for the loans being purchased, if applicable.

(v) Establish portfolio concentration limits by loan type and risk category in relation to net worth that are commensurate with the size, scope, and complexity of the credit union's loan purchases. The policy limits must consider the potential impact of loan concentrations on the purchasing credit union's earnings, loan loss reserves, and net worth.

(vi) Address when a legal review of agreements or contracts will be performed to ensure that the legal and business interests of the credit union are protected against undue risk.

(c) * * *

(1) The board of directors or investment committee approves the sale;

(2) A written agreement, and a schedule of the eligible obligations covered by the agreement, is retained by the selling credit union that identifies the specific loans being sold either directly in the agreement or through a document that is incorporated by reference into the agreement; and

(3) A review of the written agreement is completed that includes the terms, recourse, and risk-sharing arrangements, and, as applicable, loan administration and controls, to ensure that the selling Federal credit union's legal and business interests are protected from undue risks.

(d) * * *

(1) * * *

(iii) A written agreement covering the pledging arrangement is retained by the credit union that pledges the eligible obligations.

* * * * *

(g) *Payments and compensation*—

* * *

(h) *Additional authority*—(1) *Expanded purchase authority.* * * *

* * * * *

PART 714—LEASING

■ 5. The authority citation for part 714 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1766, 1785, 1789.

■ 6. Amend § 714.2 by revising paragraph (b) to read as follows:

§ 714.2 What are the permissible leasing arrangements?

* * * * *

(b) You may engage in indirect leasing as described under § 701.21(c)(9) of this chapter. In indirect leasing, a third party leases property to your member and you then purchase that lease from the third party for the purpose of leasing the property to your member. You do not have to purchase the leased property if you comply with the requirements of § 714.3.

* * * * *

§ 714.9 [Removed and Reserved]

■ 7. Remove and reserve § 714.9.

[FR Doc. 2023–20950 Filed 9–28–23; 8:45 am]

BILLING CODE 7535–01–P

FEDERAL REGISTER

Vol. 88 Friday,

No. 188 September 29, 2023

Part V

Department of Defense

Defense Acquisition Regulations System

48 CFR Parts 207, 209, 212, et al.

Defense Federal Acquisition Regulation Supplements: Interim Rules and Proposed Rule

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 213, 223, and 252

[Docket DARS–2023–0028]

RIN 0750–AK98

Defense Federal Acquisition Regulation Supplement: Replacement of Fluorinated Aqueous Film Forming Foam (DFARS Case 2020–D011)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule.

SUMMARY: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2020.

DATES: Effective October 1, 2023.

Comments on the interim rule should be submitted in writing to the address shown below on or before November 28, 2023, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2020–D011, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''DFARS Case 2020–D011.'' Select ''Comment'' and follow the instructions to submit a comment. Please include your name, company name (if any), and ''DFARS Case 2020–D011'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2020–D011 in the subject line of the message.

Comments received will generally be posted without change to *https://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: David Johnson, telephone 202–913–5764.

SUPPLEMENTARY INFORMATION:

I. Background

This interim rule revises the DFARS to implement section 322(b), (c), and (d) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116–92). Section 322 prohibits DoD procurement of fluorinated aqueous film-forming foam (AFFF) containing in excess of one part per billion of perfluoroalkyl and polyfluoroalkyl substances (PFAS) after October 1, 2023, unless an exemption applies. Section 322 also requires publication not later than January 31, 2023, of a military specification for a fluorine-free fire-fighting agent for use at all military installations and availability of such agent for use not later than October 1, 2023. After October 1, 2024, fluorinated AFFF may not be used at any military installation, unless the Secretary of Defense waives the prohibition on use.

AFFF is used by DoD to rapidly extinguish fuel fires and protect against catastrophic loss of life and property; however, AFFF has been found to contain PFAS. In May 2016, the U.S. Environmental Protection Agency issued a lifetime drinking water health advisory for perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA) of 70 parts per trillion. PFOS and PFOA are only two of the hundreds of PFAS chemicals widely used throughout the United States. DoD ended land-based use of fluorinated AFFF except in emergencies in January 2016 and more recently ceased its use in fire-fighting training. When emergencies occur that necessitate the use of fluorinated AFFF, DoD treats the fluorinated AFFF release as a spill and therefore conducts clean-up efforts to protect ground water from being impacted. Additionally, DoD updated the military specification (MILSPEC) for AFFF to ensure that new supplies available for emergency firefighting responses do not contain detectable levels of PFOS or PFOA. This new MILSPEC, MIL–PRF–24385, for PFAS-free fire suppression went into effect January 31, 2023.

II. Discussion and Analysis

To implement section 322, this interim rule adds a new subpart at DFARS 223.74, Prohibition on Procurement of Certain Items Containing Perfluoroalkyl or Polyfluoroalkyl Substances, to ensure contracting officers do not procure AFFF having more than one part per billion of PFAS after October 1, 2023, unless an exception applies. The statute provides an exemption for shipboard use, specifically use onboard ocean-going vessels. The interim rule includes a new definition of ''ocean-going vessels'' to ensure a standard application of the exemption authority throughout the DoD contracting workforce.

This interim rule adds a new clause at DFARS 252.223–7009, Prohibition of Procurement of Fluorinated Aqueous Film-Forming Foam Fire-Fighting Agent for Use on Military Installations, which prohibits contractors from providing any fire-fighting agent after October 1, 2023, that contains PFAS in excess of one part per billion. The clause will flow down to subcontracts for fire-fighting agent for use on a military installation to prevent unintentional procurement of the prohibited fire-fighting agent through the supply chain.

Conforming changes are made at DFARS 212.301 to add the new DFARS clause 252.223–7009 to the listing of solicitation provisions and contract clauses for the acquisition of commercial products and commercial services. DFARS 213.201(f) is added to apply the prohibition at 223.7402 to purchases at or below the micro-purchase threshold.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Services and Commercial Products, Including Commercially Available Off-the-Shelf (COTS) Items

This interim rule creates a new clause at DFARS 252.223–7009, Prohibition of Procurement of Fluorinated Aqueous Film-Forming Foam Fire-Fighting Agent for Use on Military Installations. The clause is prescribed for use in solicitations and contracts that include fire-fighting foam supplies and services that include aqueous film-forming foam for use on a military installation. DoD is applying the requirements of section 322 of the NDAA for FY 2020 to contracts at or below the SAT and to contracts for the acquisition of commercial services and commercial products, including COTS items.

A. Applicability to Contracts at or Below the Simplified Acquisition Threshold

41 U.S.C. 1905 governs the applicability of laws to contracts or subcontracts in amounts not greater than the simplified acquisition threshold. It is intended to limit the applicability of laws to such contracts or subcontracts. 41 U.S.C. 1905 provides that if a provision of law contains criminal or civil penalties, or if the Federal Acquisition Regulatory Council makes a written determination that it is not in the best interest of the Federal Government to exempt contracts or subcontracts at or below the SAT, the law will apply to them. The Principal Director, Defense Pricing and Contracting (DPC), is the appropriate authority to make comparable determinations for regulations to be published in the DFARS, which is part of the Federal Acquisition Regulation system of regulations. DoD has made

that determination. Therefore, this rule applies at or below the simplified acquisition threshold.

B. Applicability to Contracts for the Acquisition of Commercial Products Including COTS Items and for the Acquisition of Commercial Services

10 U.S.C. 3452 exempts contracts for the acquisition of commercial products, including COTS items, and commercial services from provisions of law enacted after October 13, 1994, unless the Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)) makes a written determination that it would not be in the best interest of DoD to exempt contracts for the procurement of commercial products and commercial services from the applicability of the provision or contract requirement, except for a provision of law that—

- Provides for criminal or civil penalties;
- Requires that certain articles be bought from American sources pursuant to 10 U.S.C. 4862 (previously 10 U.S.C. 2533c), or that strategic materials critical to national security be bought from American sources pursuant to 10 U.S.C. 4863 (previously 10 U.S.C. 2533b); or
- Specifically refers to 10 U.S.C. 3452 and states that it shall apply to contracts and subcontracts for the acquisition of commercial products (including COTS items) and commercial services.

The statute implemented in this rule does not impose criminal or civil penalties, does not require purchase pursuant to 10 U.S.C. 4862 or 4863, and does not refer to 10 U.S.C. 3452. Therefore, section 322 will not apply to the acquisition of commercial services or commercial products including COTS items unless a written determination is made. Due to delegations of authority, the Principal Director, DPC is the appropriate authority to make this determination. DoD has made that determination. Therefore, this rule applies to the acquisition of commercial products including COTS items and to the acquisition of commercial services.

C. Determination

Given that the requirements of section 322 of the NDAA for FY 2020 were enacted to prohibit the purchase and use of fluorinated AFFF, and the product is procured commercially as a supply or is included in contracts for certain services, DoD has determined that it is in the best interest of the Federal Government to apply the rule to contracts for the acquisition of commercial services and commercial products including COTS items, as defined at FAR 2.101. An exception for contracts for the acquisition of commercial services and commercial products, including COTS items, would exclude contracts intended to be covered by the law, thereby undermining the overarching purpose of the law.

IV. Expected Impact of the Rule

This rule is not expected to have a significant economic impact on contractors. Businesses have been selling fluorine-free fire-fighting foams in various formulations alongside PFAS-containing AFFF in the commercial marketplace for several years. Some or most of the businesses that have supplied PFAS-containing AFFF to DoD will likely supply fluorine-free foams to DoD. Moreover, DoD has already significantly reduced the use of AFFF since ending both land-based use and use in training exercises in the past several years.

By limiting DoD procurement of AFFF containing detectable amounts of PFAS, this rule both protects DoD personnel from PFAS exposure and limits the possibility of AFFF-related PFAS releases into the environment.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because DoD has significantly reduced the procurement and use of AFFF. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This interim rule amends the DFARS to implement section 322 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116–92). Section 322 prohibits DoD procurement of fluorinated aqueous film-forming foam (AFFF), which is used to fight fires, containing in excess of one part per billion of perfluoroalkyl and polyfluoroalkyl substances (PFAS) after October 1, 2023, unless an exemption applies. Section 322 provides an exemption for use onboard ocean-going vessels.

The objective of the rule is to ensure contracting officers do not procure and contractors do not provide or use the prohibited fluorinated AFFF unless an exemption applies. The legal basis of the rule is section 322 of the NDAA for FY 2020.

This rule is not expected to affect significant numbers of small entities, because DoD has significantly reduced the use of AFFF since ending both use in training exercises and land-based use in the past several years. Data generated from the Federal Procurement Data System for fiscal years 2019 through 2022 indicates that DoD has awarded an average of 32,326 contracts for specific product and service codes related to firefighting supplies, equipment, and services to approximately 643 unique small entities during the three-year period. While DoD is unable to identify how many unique small entities of the 643 currently supply fire-fighting agent to DoD, to the extent they do supply fire-fighting agent, they will most likely continue to do so, assuming the use is exempt, or a waiver has been granted. Further, any PFAS-free replacement product will most likely follow existing supply channels.

The rule does not impose any new reporting, recordkeeping, or compliance requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no practical alternatives that will accomplish the objectives of the statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2020–D011), in correspondence.

VIII. Paperwork Reduction Act

This interim rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

IX. Determination To Issue an Interim Rule Effective in Less Than 30 Days

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to promulgate this interim rule, effective in less than 30 days, without prior opportunity for public comment. This action must be effective in less than 30 days to implement section 322 of the NDAA for FY 2020 before its statutory prohibition on procurement of PFAS-containing AFFF takes effect on October 1, 2023. This rule both protects DoD personnel from PFAS exposure and limits the possibility of AFFF-related PFAS releases into the environment. In addition, the rule provides advance notice to contracting officers to reduce the risk of obligating funds for the purchase of PFAS-containing AFFF in violation of section 322. Therefore, its timely implementation is imperative.

However, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 212, 213, 223, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 213, 223, and 252 are amended as follows:

■ 1. The authority citation for parts 212, 213, 223, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

■ 2. Amend section 212.301—

■ a. By designating paragraph (f)(viii) as (f)(viii)(A) and

■ b. By adding a new paragraph (f)(viii)(B).

The addition reads as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

* * * * *

(f) * * *

(viii) * * *

(B) Use the clause at 252.223–7009, Prohibition of Procurement of Fluorinated Aqueous Film-Forming Foam Fire-Fighting Agent for Use on Military Installations, as prescribed at 223.7404 to comply with section 322(b), (c), and (d) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92).

* * * * *

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

■ 3. Amend section 213.201 by adding new paragraph (f) to read as follows:

213.201 General.

(f) Notwithstanding FAR 13.201(f), apply the prohibition at 223.7402 to purchases at or below the micro-purchase threshold.

* * * * *

PART 223—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 4. Add subpart 223.74 to read as follows:

Subpart 223.74—Prohibition on Procurement of Certain Items Containing Perfluoroalkyl or Polyfluoroalkyl Substances

Sec.

223.7400 Scope of subpart.
223.7401 Definition.
223.7402 Prohibition.
223.7403 Procedures.
223.7404 Contract clause.

Subpart 223.74—Prohibition on Procurement of Certain Items Containing Perfluoroalkyl or Polyfluoroalkyl Substances

223.7400 Scope of subpart.

This subpart implements section 322(b), (c), and (d) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92).

223.7401 Definition.

As used in this subpart—

Ocean-going vessel means a vessel over 59 feet in length owned or operated by DoD or the U.S. Coast Guard, other than vessels that are chartered by the Armed Forces on a time or voyage basis.

223.7402 Prohibition.

After October 1, 2023, do not procure aqueous film-forming foam, which is used for fighting fires, that contains in excess of one part per billion perfluoroalkyl substances or polyfluoroalkyl substances. Procurements of fire-fighting agent for use solely onboard ocean-going vessels are exempt from this prohibition.

223.7403 Procedures.

After October 1, 2023, contracting officers shall only issue a solicitation to procure fire-fighting foam in accordance with performance specification MIL–PRF–24385F(SH), unless the requiring activity provides documentation of the exemption at 223.7402. The contracting officer shall maintain the documentation in the contract file.

223.7404 Contract clause.

Use the clause at 252.223–7009, Prohibition of Procurement of Fluorinated Aqueous Film-Forming Foam Fire-Fighting Agent for Use on Military Installations, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, relating to fire-fighting on military installations.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Add section 252.223–7009 to read as follows:

252.223–7009 Prohibition of Procurement of Fluorinated Aqueous Film-Forming Foam Fire-Fighting Agent for Use on Military Installations.

As prescribed in 223.7404, use the following clause:

Prohibition of Procument of Flourinated Aqueous Film-Forming Foam Fire-Fighting Agent for Use on Military Installations (Oct 2023)

(a) *Definitions.* As used in this clause, *perfluoroalkyl substances* and *polyfluoroalkyl substances* have the meanings given in section 322(f) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92).

(b) *Prohibition.* The Contractor shall not provide or use under this contract any aqueous film-forming foam fire-fighting agent that contains perfluoroalkyl substances or polyfluoroalkyl substances in excess of one part per billion.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for

commercial products and commercial services, relating to fire-fighting on a military installation.

(End of clause)

[FR Doc. 2023–20800 Filed 9–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 209, 212, and 252

[Docket DARS–2023–0029]

RIN 0750–AL41

Defense Federal Acquisition Regulation Supplement: Limitation on Certain Institutes of Higher Education (DFARS Case 2021–D023)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule.

SUMMARY: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2021, that provides for the limitation of funds authorized to be appropriated or otherwise made available for any fiscal year for DoD, to be provided to an institution of higher education that hosts a Confucius Institute.

DATES: Effective October 1, 2023.

Comments on the interim rule should be submitted in writing to the address shown below on or before November 28, 2023, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2021–D023, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''DFARS Case 2021–D023.'' Select ''Comment'' and follow the instructions to submit a comment. Please include ''DFARS Case 2021–D023'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2021–D023 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Kimberly Bass, telephone 703–717–3446.

SUPPLEMENTARY INFORMATION:

I. Background

This interim rule revises the DFARS to implement section 1062 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Pub. L. 116–283). Section 1062 provides that none of the funds authorized to be appropriated or otherwise made available for any fiscal year for DoD may be provided to an institution of higher education that hosts a Confucius Institute, defined as a cultural institute directly or indirectly funded by the government of the People's Republic of China. According to section 1062, the limitation of funds is applicable to amounts other than those provided directly to students as educational assistance. The effective date of section 1062 is October 1, 2023.

II. Discussion and Analysis

A. New Definitions

The interim rule adds new definitions at DFARS section 209.170–1, Definitions, for ''Confucius Institute'' and ''institution of higher education''. ''Confucius Institute'' means a cultural institute directly or indirectly funded by the government of the People's Republic of China. ''Institution of higher education'' has the meaning given in 20 U.S.C. 1002.

B. Limitation of Funds

At DFARS 209.170–2, the limitation is added regarding not providing funds appropriated or otherwise made available for any fiscal year for DoD to an institution of higher education that hosts a Confucius Institute, other than amounts provided directly to students as educational assistance.

C. Waiver of Funds Limitation

Pursuant to section 1286(g) of the NDAA for FY 2019 (Pub. L. 115–232; 10 U.S.C. 4001 note), the funds limitation with respect to an institution of higher education can be waived by the Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)). Section 209.170–3 addresses the OUSD(R&E), Confucius Institute Waiver Program procedures.

D. Solicitation Provision

A new solicitation provision is added at DFARS 252.209–7011, Representation for Restriction on the Use of Certain Institutions of Higher Education, for use in solicitations, including solicitations using Federal Acquisition Regulation (FAR) part 12 procedures for the acquisition of commercial products and commercial services, for acquisitions to an institution of higher education. The prescription for the provision is at DFARS 209.170–4. The provision is also added to the list of solicitation provisions and contract clauses for the acquisition of commercial products and commercial services at DFARS 212.301.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products, Including Commercially Available Off-the-Shelf (COTS) Items, and Commercial Services

This rule creates a new solicitation provision at DFARS 252.209–7011, Representation for Restriction on the Use of Certain Institutions of Higher Education. The provision at DFARS 252.209–7011 is prescribed in DFARS 209.170–4 for use in solicitations for acquisitions to an institution of higher education, including solicitations for acquisitions to an institution of higher education using FAR part 12 procedures for the acquisition of commercial products, including COTS items, and commercial services. DoD is applying the rule to contracts at or below the SAT, to contracts for the acquisition of commercial products including COTS items, and for the acquisition of commercial services.

A. Applicability to Contracts at or Below the Simplified Acquisition Threshold

41 U.S.C. 1905 governs the applicability of laws to contracts or subcontracts in amounts not greater than the simplified acquisition threshold. It is intended to limit the applicability of laws to such contracts or subcontracts. 41 U.S.C. 1905 provides that if a provision of law contains criminal or civil penalties, or if the Federal Acquisition Regulatory Council makes a written determination that it is not in the best interest of the Federal Government to exempt contracts or subcontracts at or below the SAT, the law will apply to them. The Principal Director, Defense Pricing and Contracting (DPC), is the appropriate authority to make comparable determinations for regulations to be published in the DFARS, which is part of the FAR system of regulations. DoD has made that determination. Therefore, this rule applies at or below the simplified acquisition threshold.

B. Applicability to Contracts for the Acquisition of Commercial Products Including COTS Items and for the Acquisition of Commercial Services

10 U.S.C. 3452 exempts contracts and subcontracts for the acquisition of commercial products, including COTS items, and commercial services from provisions of law enacted after October 13, 1994, unless the Under Secretary of Defense (Acquisition and Sustainment) (USD(A&S)) makes a written determination that it would not be in the best interest of DoD to exempt contracts for the procurement of commercial products and commercial services from the applicability of the provision or contract requirement, except for a provision of law that—

—Provides for criminal or civil penalties;

—Requires that certain articles be bought from American sources pursuant to 10 U.S.C. 4862 or that strategic materials critical to national security be bought from American sources pursuant to 10 U.S.C. 4863; or

—Specifically refers to 10 U.S.C. 3452 and states that it shall apply to contracts and subcontracts for the acquisition of commercial products (including COTS items) and commercial services.

Section 1062 of the NDAA for FY 2021, which is implemented in this rule, does not impose criminal or civil penalties, does not require purchase pursuant to 10 U.S.C. 4862 or 4863, and does not refer to 10 U.S.C. 3452. Section 1062 is silent on applicability to the acquisition of commercial services and commercial products (including COTS items). Therefore, section 1062 will not apply to the acquisition of commercial services or commercial products including COTS items unless a written determination is made. Due to delegations of authority, the Principal Director, Defense Pricing and Contracting is the appropriate authority to make this determination. DoD has made that determination. Therefore, this rule applies to the acquisition of commercial products including COTS items and to the acquisition of commercial services.

C. Determinations

To ensure compliance with the limitation on the use of funds, the rule must apply to all contracts with institutions of higher education. An exception for acquisitions at or below the SAT or for the acquisition of commercial products including COTS items and commercial services would exclude the contracts intended to be covered by the law, thereby undermining the overarching public policy purpose of the law and the associated statutory funds limitation.

IV. Expected Impact of the Rule

Offerors that are institutions of higher education will be required to comply with the new provision and to represent, by submission of an offer, that they are not an entity hosts a Confucius Institute, or that they have obtained a waiver from OUSD(R&E). De minimis associated burden exists since the rule only requires the prospective offeror, when submitting an offer in response to a solicitation, to represent compliance with the requirements of section 1062. Moreover, data from the Federal Procurement Data System (FPDS) indicate that 10 unique entities in fiscal year 2022 met the definition of an institution of higher education; none of those 10 entities hosted a Confucius Institute.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, as amended.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD does not expect this interim rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the funds limitation concerns a very limited number of offerors and, therefore, has a limited impact. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to require that none of the funds authorized to be appropriated or otherwise made available for any fiscal year for DoD may be provided to an institution of higher education that hosts a Confucius Institute, defined as a cultural institute directly or indirectly funded by the government of the People's Republic of China.

The objective for the rule is to implement section 1062 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021, which is the legal basis for the rule. Section 1062 provides limitations on appropriated funds. Specifically, section 1062 prohibits DoD from providing funding to any U.S. institution of higher education hosting a Confucius Institute, unless that institution receives a waiver from the DoD Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)), when a determination is made that such a waiver is appropriate in accordance with the OUSD(R&E) Confucius Institute Waiver Program.

To assess the potential impact, the Federal Procurement Data System (FPDS) was queried for FY 2020, 2021, and 2022 for DoD contracts and purchase orders, to include commercial products and commercial services, awarded to institutions of higher education that meet the definition in 20 U.S.C. 1002. The FPDS data reflect that DoD made a total of 110 contract awards to 10 unique entities over the entire three fiscal years. All awards were made to other than small unique entities. Entities in FPDS categorized as higher-level institutions of education are designated only as other than small entities.

This rule does not include any new reporting, recordkeeping, or other compliance requirements for small entities, unless they are associated with an institution of higher education that hosts a Confucius Institute.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the rule that would meet the requirements of the statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the

existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2021–D023), in correspondence.

VIII. Paperwork Reduction Act

This interim rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

IX. Determination To Issue an Interim Rule Effective in Less Than 30 Days

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to promulgate this interim rule, effective in less than 30 days, without prior opportunity for public comment. This action must be effective in less than 30 days, because the effective date of the statute is October 1, 2023. Section 1062 of the NDAA for FY 2021 provides that none of the funds authorized to be appropriated or otherwise made available for any fiscal year for DoD may be provided to an institution of higher education that hosts a Confucius Institute, defined as a cultural institute directly or indirectly funded by the government of the People's Republic of China. Therefore, the interim rule, which implements section 1062, is necessary to ensure that contracting officers adhere to the limitation on the use of funds to avoid the risk of a possible violation of the Anti-Deficiency Act.

However, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 209, 212, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 209, 212, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 209, 212, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 209—CONTRACTOR QUALIFICATIONS

209.106 [Amended]

■ 2. Amend section 209.106 by removing ''preawared'' and adding ''preaward'' in its place.

■ 3. Add sections 209.170, 209.170–0, 209.170–1, 209.170–2, 209.170–3, and 209.170–4 to read as follows:

* * * * *

Sec.

209.170 Restriction on the use of certain institutions of higher education.
209.170–0 Scope.
209.170–1 Definitions.
209.170–2 Restriction.
209.170–3 Waiver of restriction.
209.170–4 Solicitation provision.

* * * * *

209.170 Restriction on the use of certain institutions of higher education.

209.170–0 Scope.

This section implements section 1062 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283).

209.170–1 Definitions.

As used in this section—

Confucius Institute means a cultural institute directly or indirectly funded by the government of the People's Republic of China.

Institution of higher education has the meaning given in 20 U.S.C. 1002.

209.170–2 Restriction.

None of the funds authorized to be appropriated or otherwise made available for any fiscal year for DoD may be used to contract with an institution of higher education that hosts a Confucius Institute, other than amounts provided directly to students as educational assistance. Contracting officers shall not enter into a contract with any institution of higher education that hosts a Confucius Institute, unless a waiver has been granted.

209.170–3 Waiver of restriction.

The restriction in 209.170–2 can be waived by the Office of the Under Secretary of Defense (Research and Engineering), without power of delegation, in accordance with the Confucius Institute Waiver Program guidance. See PGI 209.170–4.

209.170–4 Solicitation provision.

Use the provision at 252.209–7011, Representation for Restriction on the Use of Certain Institutions of Higher Education, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services, for acquisitions to an institution of higher education.

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

■ 3. Amend section 212.301 by—

■ a. Redesignating paragraphs (f)(iv) through (xix) as paragraphs (f)(v) through (xx); and

■ b. Adding new paragraph (f)(iv) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

(f) * * *

(iv) *Part 209—Contractor Qualifications.* Use the provision at 252.209–7011, Representation for Restriction on the Use of Certain Institutions of Higher Education, as prescribed at 209.170–4, to comply with section 1062 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283).

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Add section 252.209–7011 to read as follows:

252.209–7011 Representation for Restriction on the Use of Certain Institutions of Higher Education.

As prescribed in 209.170–4, use the following provision:

Representation for Restriction on the Use of Certain Institutions of Higher Education (Oct 2023)

(a) *Definitions.* As used in this provision—

Confucius Institute means a cultural institute directly or indirectly funded by the government of the People's Republic of China.

*Institution of higher educatio*n has the meaning given in 20 U.S.C. 1002.

(b) *Restriction.* As required by section 1062 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283), DoD may not award a contract with any institution of higher education that hosts a Confucius Institute. Section 1062 prohibits DoD from providing funding to any U.S. institution of higher education hosting a Confucius Institute unless that institution receives a waiver from the Department of Defense Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)). See the OUSD(R&E) Confucius Institute Waiver Program Guidance to U.S. Institutions of Higher Education at *https://rt.cto.mil/wp-content/uploads/Confucius-Institute-Waiver-Program-Guidance-28Mar2023.pdf.*

(c) *Representation.* By submission of an offer, the Offeror represents that—

(1) It is not an institution of higher education that hosts a Confucius Institute; or

(2) The Offeror has obtained a waiver approved by OUSD(R&E).

(End of provision)

[FR Doc. 2023–20816 Filed 9–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 207 and 234

[Docket DARS–2023–0030]

RIN 0750–AL82

Defense Federal Acquisition Regulation Supplement: Use of Fixed-Price Contracts for Certain Major Defense Acquisition Programs (DFARS Case 2023–D009)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2023that limits the number of low-rate initial production lots associated with a major defense acquisition program under certain circumstances.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before November 28, 2023, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2023–D009 using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''DFARS Case 2023–D009.'' Select ''Comment'' and follow the instructions to submit a comment. Please include ''DFARS Case 2023–D009'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2023–D009 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanette Snyder, 703–508–7524.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement section 808 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023 (Pub. L. 117–263). Section 808 amends section 818 of Public Law 109–364 to limit the number of low-rate initial production lots associated with a major defense acquisition program to be procured to no more than one when the milestone decision authority authorizes the use of a fixed-price type contract at Milestone B and the scope of the work includes both development and low-rate initial production. This limitation may be waived.

II. Discussion and Analysis

This proposed rule adds new guidance to contracting officers at DFARS 234.004, paragraph (2)(v), to specify that the contracting officer shall not procure more than one low-rate initial production lot associated with a major defense acquisition program if—

- The milestone decision authority authorizes the use of a fixed-price type contract at the time of Milestone B approval; and
- The scope of work of the fixed-price type contract includes both development and low-rate initial production of items for such major defense acquisition program.

This limitation may be waived by the service acquisition executive for the department concerned, delegable to no lower than one level above the contracting officer, if—

- A written notification of the waiver, including rationale, is provided to the congressional defense committees no later than 30 days after issuance of the waiver; and
- A copy of the waiver and such congressional notification are included in the contract file.

This rule also proposes to modify DFARS 207.106 to reference DFARS 234.004 when selecting the contract type for a major defense acquisition program and to remove the reference to section 811 of the NDAA for FY 2013 (Pub. L. 112–239), since more than one NDAA applies requirements or restrictions to contract types for procurements associated with major defense acquisition programs.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not create any new solicitation provisions or contract clauses. It does not impact any existing solicitation provisions or contract clauses or their applicability to contracts valued at or below the simplified acquisition threshold, for commercial products including COTS items, or for commercial services.

IV. Expected Impact of the Rule

As a result of this proposed rule, unless waived, the Government may not procure more than one low-rate initial production lot associated with a major defense acquisition program if, at the time of Milestone B approval, the milestone decision authority authorizes the use of a fixed-price type contract and the scope of work of the fixed-price contract includes both development and low-rate initial production of items associated with such major defense acquisition program. This rule does not impact contractor operations; however, it may limit contractor risk assumed under such contracts. Development and initial production of an item likely involve the discovery and resolution of problems that are unknown beforehand. Risk to a contractor is higher when the contractor must propose prices for multiple production lots of an item before the development and initial production of that item are complete. By limiting the number of low-rate initial production lots on a fixed-price contract that also includes development, this risk to the contractor may be reduced.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, as amended.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule, when finalized, to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because this rule only applies to certain fixed-price type contracts for major defense acquisition programs. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This proposed rule is necessary to implement section 808 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023 (Pub. L. 117–263). Section 808 modifies section 818 of

Public Law 109–364 to limit the number of low-rate initial production lots associated with a major defense acquisition program to be procured to no more than one when the milestone decision authority authorizes the use of a fixed-price type contract at the time of Milestone B approval and the scope of the fixed-price contract includes both development and low-rate initial production.

The objective of this proposed rule is to limit the number of low-rate initial production lots associated with a major defense acquisition program to no more than one when the milestone decision authority authorizes the use of a fixed-price type contract at the time of Milestone B approval and the scope of the fixed-price contract includes both development and low-rate initial production. The legal basis for the rule is section 808 of the NDAA for FY 2023.

Data is not available on the number of fixed-price type contracts for major defense acquisition programs that contain both development and low-rate initial production; therefore, data was pulled on contracts that include DFARS clause 252.234–7004, Cost and Software Data Reporting System, or its alternate I clause. This DFARS clause is required to be included in solicitations and contracts for major defense acquisition programs that exceed $50 million and its alternate I clause is required to be included in solicitations and contracts for major defense acquisition programs that are greater than $20 million, but less than or equal to $50 million under certain circumstances. According to the Procurement Business Intelligence Service, DoD awarded contracts for major defense acquisition programs to 162 unique small entities in FY 2020, 133 in FY 2021, and 116 in FY 2022. The average over the three-year period is 137 per fiscal year. Therefore, the number of small entities to which this rule may apply is 137.

This proposed rule does not impose any new reporting, recordkeeping or other compliance requirements for small entities.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives that would accomplish the stated objectives of the applicable statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2023–D009), in correspondence.

VIII. Paperwork Reduction Act

This proposed rule does not contain any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 207 and 234

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 207 and 234 are proposed to be amended as follows:

■ 1. The authority citation for parts 207 and 234 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 207—ACQUISITION PLANNING

■ 2. In section 207.106, revise paragraph (S–74) to read as follows:

207.106 Additional requirements for major systems.

* * * * *

(S–74) When selecting contract type for a major defense acquisition program, see 234.004.

PART 234—MAJOR SYSTEM ACQUISITION

■ 3. Amend section 234.004 by adding new paragraph (2)(v) to read as follows:

234.004 Acquisition strategy.

* * * * *

(2) * * *

(v) In accordance with section 808 of the National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117–263)—

(A) The contracting officer shall not procure more than one lot for low-rate initial production, as defined at 10 U.S.C. 4231, associated with a major defense acquisition program if—

(*1*) The milestone decision authority authorizes the use of a fixed-price type contract at the time of Milestone B approval; and

(*2*) The scope of work of the fixed-price type contract includes both the development and low-rate initial production of items for such major defense acquisition program.

(B) This limitation may be waived by the service acquisition executive for the department concerned, delegable to no lower than one level above the contracting officer, if—

(*1*) A written notification of the waiver, including associated rationale, is provided to the congressional defense committees no later than 30 days after issuance of the waiver in accordance with agency procedures; and

(*2*) A copy of the waiver and such congressional notification are included in the contract file.

* * * * *

[FR Doc. 2023–20801 Filed 9–28–23; 8:45 am]

BILLING CODE 5001–06–P

FEDERAL REGISTER

Vol. 88 Friday,

No. 188 September 29, 2023

Part VI

The President

Proclamation 10632—Gold Star Mother's and Family's Day, 2023

Federal Register
Vol. 88, No. 188
Friday, September 29, 2023

Presidential Documents

Title 3—

The President

Proclamation 10632 of September 25, 2023

Gold Star Mother's and Family's Day, 2023

By the President of the United States of America

A Proclamation

On this day of solemn remembrance, my heart is with all our Nation's Gold Star mothers and fathers, wives and husbands, and daughters and sons—all the families who are grieving a loved one, a patriot, who died fighting to defend our country and preserve our freedom. Today, we keep the faith with all those who kept faith with us by recommitting to our sacred obligation as a Nation to always care for the families of those who gave their last full measure of devotion to our Nation.

From the fields of Yorktown and the shores of Normandy to the rice paddies of Busan and Saigon, the valleys of Kandahar, and the mountains of Sinjar, generations of brave men and women have laid down their lives—not for a person or place but for an idea unlike any other in human history: the idea of the United States of America. And together, they helped deliver a Nation grounded in freedom, democracy, equality, tolerance, opportunity, and justice. All of us live by the light of the flame of liberty that our fallen heroes kept burning. Their legacies—guarded and strengthened by each generation—will always live on in our Nation.

I know that days of remembrance can bring grieving families right back to the first terrible moments when the hurt was so raw. The pain of remembering those we have lost and the pride in who they were and how they lived can be inseparable. As we honor the courage and sacrifice of all those who died in uniform, the First Lady and I are keeping all our Gold Star families in our prayers. And my Administration has made it a top priority to fulfill our Nation's promise to care for military and veteran families, caregivers, and survivors—the loved ones who provide strength through countless deployments and serve our Nation in so many ways, all while enduring their loved one's absence. Over the past two and a half years, I have signed into law more than 25 bipartisan laws to support our service members and veterans as well as their families, caregivers, and survivors, and we will always stand with our Gold Star families to ensure they have support and resources to help them heal.

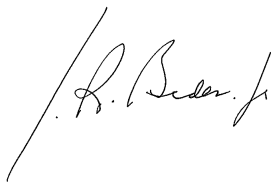
On Gold Star Mother's and Family's Day, we grieve for those who paid the ultimate price to keep our Nation safe and secure and for the families who will always feel their absence. May we continue to honor their sacrifice by working toward that more perfect union, for which so many patriots lived and died, and may we always keep faith with our Gold Star families who carry their light forward each day.

The Congress, by Senate Joint Resolution 115 of June 23, 1936 (49 Stat. 1895 as amended), has designated the last Sunday in September as ''Gold Star Mother's Day.''

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim Sunday, September 24, 2023, as Gold Star Mother's and Family's Day. I call upon all Government officials to display the flag of the United States over Government buildings on this special day. I also encourage the American people to display the

flag and hold appropriate ceremonies as a public expression of our Nation's gratitude and respect for our Gold Star Mothers and Families.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of September, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-eighth.



[FR Doc. 2023–21797
Filed 9–28–23; 11:15 am]
Billing code 3395–F3–P

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