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FEDERAL REGISTER

Vol. 89 Monday,

No. 19 January 29, 2024

Pages 5421–5736

OFFICE OF THE FEDERAL REGISTER

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

FEDERAL ELECTION COMMISSION

11 CFR Parts 104 and 9036

[Notice 2024–04]

Technological Modernization; Correction

AGENCY: Federal Election Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Election Commission is correcting two amendatory instructions that appeared in a final rule published in the **Federal Register** on January 2, 2024. The final rule revised certain Commission regulations in light of technological advances in communications, recordkeeping, and financial transactions, and eliminated and updated regulatory references to outdated technologies.

DATES: Effective March 1, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Rothstein, Assistant General Counsel, or Ms. Joanna S. Waldstreicher or Mr. Tony Buckley, Attorneys, 1050 First Street NE, Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: In FR Doc. 2023–27908 appearing on page 196 in the **Federal Register** of Tuesday, January 2, 2024, the following corrections are made:

§ 104.3 [Corrected]

■ 1. On page 216, in the first column, correct instruction 42 to read ''Amend § 104.3(e)(5) by removing the phrase ''at the street address identified in the definition of ''Commission'' in § 1.2 of this chapter,''.''

§ 9036.1 [Corrected]

■ 2. On page 221, in the second column, correct instruction 131.e., for § 9036.1, to read ''In paragraph (b)(6), remove the words ''full-sized photocopy'' and add in their place the words ''record that contains a complete image''; and''.

Dated: January 24, 2024.

On behalf of the Commission.

Sean J. Cooksey,

Chairman, Federal Election Commission.

[FR Doc. 2024–01676 Filed 1–26–24; 8:45 am]

BILLING CODE 6715–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 107 and 121

RIN 3245–AH90

Small Business Investment Company Investment Diversification and Growth; Technical Amendments and Clarifications; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Direct final rule; correction.

SUMMARY: The Small Business Administration (SBA) is correcting a rule that appeared in the **Federal Register** on January 19, 2024. This correction fixes an error in an instruction.

DATES: This correction is effective March 4, 2024.

FOR FURTHER INFORMATION CONTACT:

Policy: Bailey G. DeVries, Associate Administrator of the Office of Investment and Innovation, Small Business Administration, *oii.frontoffice@sba.gov,* 202–941–6064. This phone number can also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission's TTY-Based Telecommunications Relay Service teletype service at 711.

Regulatory Comments/Federal Register Docket: Nathan Putnam, Office of Investment and Innovation, Small Business Administration, *oii.frontoffice@sba.gov,* 202–699–1746. This phone number can also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission's TTY-Based Telecommunications Relay Service teletype service at 711.

SUPPLEMENTARY INFORMATION: In FR Doc. 2024–00559 appearing on page 3542 in the **Federal Register** on Friday January 19, 2024, the following correction is made:

§ 107.150 [Corrected]

■ 1. On page 3547, in the second column, in instruction 3, the instruction ''Amend § 107.150 by revising paragraph (b)(2) to read as follows:'' is corrected to read ''Amend § 107.150 by revising paragraph (b)(2) introductory text to read as follows:''.

Bailey DeVries,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2024–01629 Filed 1–26–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 11

[Docket No. RM11–6–000]

Annual Update to Fee Schedule for the Use of Government Lands by Hydropower Licensees

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: In accordance with the Commission's regulations, the Commission, by its designee, the Executive Director, issues this annual update to the fee schedule in the appendix to the part, which lists per-acre rental fees by county (or other geographic area) for use of government lands by hydropower licensees.

DATES:

Effective date: This rule is effective January 29, 2024.

Applicability date: The updates to appendix A to part 11, with the fee schedule of per-acre rental fees by county (or other geographic area), are from October 1, 2023, through September 30, 2024 (Fiscal Year 2024).

FOR FURTHER INFORMATION CONTACT: Raven A. Rodriguez, Financial Management Division Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6276, *Raven.Rodriguez@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Annual Update to Fee Schedule

Section 11.2 of the Commission's regulations provides a method for

computing reasonable annual charges for recompensing the United States for the use, occupancy, and enjoyment of its lands by hydropower licensees.[1] Annual charges for the use of government lands are payable in advance, and are based on an annual schedule of per-acre rental fees published in appendix A to part 11 of the Commission's regulations.[2] This notice updates the fee schedule in appendix A to part 11 for fiscal year 2024 (October 1, 2023, through September 30, 2024).

Effective Date

This final rule is effective January 29, 2024. The provisions of 5 U.S.C. 804, regarding Congressional review of final rules, do not apply to this final rule because the rule concerns agency procedure and practice and will not substantially affect the rights or obligations of non-agency parties. This final rule merely updates the fee schedule published in the Code of Federal Regulations to reflect scheduled adjustments, as provided for in § 11.2 of the Commission's regulations.

List of Subjects in 18 CFR Part 11

Public lands.

By the Executive Director.

Issued: January 18, 2024.

William Foster,

Chief Financial Officer, Office of the Executive Director.

In consideration of the foregoing, the Commission amends appendix A to part 11, chapter I, title 18, Code of Federal Regulations, as follows.

PART 11—ANNUAL CHARGES UNDER PART I OF THE FEDERAL POWER ACT

■ 1. The authority citation for part 11 is revised to read as follows:

Authority: 16 U.S.C. 792–828c; 42 U.S.C. 7101–7352.

■ 2. Appendix A to part 11 is revised to read as follows:

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024

State	County	Fee/acre/yr
Alabama	Autauga	$61.84
	Baldwin	163.30
	Barbour	62.63
	Bibb	78.73
	Blount	101.02
	Bullock	60.08
	Butler	68.83
	Calhoun	119.09
	Chambers	70.48
	Cherokee	88.82
	Chilton	98.98
	Choctaw	57.50
	Clarke	63.92
	Clay	78.73
	Cleburne	97.04
	Coffee	73.85
	Colbert	74.74
	Conecuh	60.08
	Coosa	64.28
	Covington	75.28
	Crenshaw	69.95
	Cullman	111.54
	Dale	84.39
	Dallas	52.59
	DeKalb	110.36
	Elmore	84.03
	Escambia	68.94
	Etowah	107.59
	Fayette	61.87
	Franklin	68.74
	Geneva	69.44
	Greene	54.72
	Hale	63.39
	Henry	72.36
	Houston	99.09
	Jackson	85.32
	Jefferson	123.77
	Lamar	52.14
	Lauderdale	101.70
	Lawrence	106.47
	Lee	116.39
	Limestone	115.89
	Lowndes	53.23
	Macon	65.83
	Madison	148.82
	Marengo	56.29
	Marion	65.60
	Marshall	124.28
	Mobile	132.89
	Monroe	67.20
	Montgomery	74.60
	Morgan	123.49
	Perry	61.93
	Pickens	70.90
	Pike	73.48
	Randolph	88.54
	Russell	71.27
	Shelby	111.51
	St. Clair	119.96
	Sumter	52.50
	Talladega	92.81
	Tallapoosa	80.07
	Tuscaloosa	94.35
	Walker	84.67
	Washington	56.82
	Wilcox	50.99
	Winston	77.55
Alaska	Aleutian Islands	0.94
	Statewide	50.28
Arizona	Apache	4.65
	Cochise	33.93
	Coconino	3.59
	Gila	6.58
	Graham	10.97
	Greenlee	26.38
	La Paz	34.11
	Maricopa	156.29
	Mohave	14.20
	Navajo	3.74
	Pima	8.92
	Pinal	46.77
	Santa Cruz	33.74
	Yavapai	27.94
	Yuma	156.28
Arkansas	Arkansas	65.87
	Ashley	60.50
	Baxter	56.23
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	Colusa	53.01
	Contra Costa	46.06
	Del Norte	55.33
	El Dorado	66.05
	Fresno	75.58

[1] *Annual Charges for the Use of Government Lands,* Order No. 774, 78 FR 5256 (January 25, 2013), FERC Stats. & Regs. ¶ 31,341 (2013).

[2] 18 CFR part 11 (2018).

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Glenn	59.32
	Humboldt	20.56
	Imperial	74.09
	Inyo	4.13
	Kern	49.11
	Kings	71.96
	Lake	43.62
	Lassen	14.23
	Los Angeles	123.63
	Madera	72.91
	Marin	39.01
	Mariposa	13.73
	Mendocino	25.48
	Merced	87.07
	Modoc	13.02
	Mono	12.78
	Monterey	49.03
	Napa	293.80
	Nevada	49.41
	Orange	127.05
	Placer	44.68
	Plumas	15.29
	Riverside	120.73
	Sacramento	66.86
	San Benito	23.75
	San Bernardino	132.39
	San Diego	154.43
	San Francisco	517.41
	San Joaquin	99.94
	San Luis Obispo	50.22
	San Mateo	65.00
	Santa Barbara	69.08
	Santa Clara	54.14
	Santa Cruz	142.08
	Shasta	19.42
	Sierra	11.33
	Siskiyou	20.40
	Solano	60.87
	Sonoma	147.63
	Stanislaus	103.93
	Sutter	63.38
	Tehama	28.70
	Trinity	12.78
	Tulare	78.02
	Tuolumne	24.72
	Ventura	169.66
	Yolo	64.56
	Yuba	54.70
Colorado	Adams	28.67
	Alamosa	37.68
	Arapahoe	40.17
	Archuleta	55.17
	Baca	13.93
	Bent	12.26
	Boulder	223.42
	Broomfield	97.16
	Chaffee	90.20
	Cheyenne	14.89
	Clear Creek	56.11
	Conejos	29.98
	Costilla	21.59
	Crowley	9.05
	Custer	34.53
	Delta	85.54
	Denver	1,132.61
	Dolores	31.69
	Douglas	119.91
	Eagle	58.81
	El Paso	25.01
	Elbert	27.12
	Fremont	41.52
	Garfield	42.64
	Gilpin	75.11
	Grand	39.08
	Gunnison	45.62
	Hinsdale	32.72
	Huerfano	17.10
	Jackson	23.51
	Jefferson	137.12
	Kiowa	13.40
	Kit Carson	21.66
	La Plata	40.15
	Lake	36.52
	Larimer	82.41
	Las Animas	10.70
	Lincoln	12.51
	Logan	21.11
	Mesa	98.16
	Mineral	61.16
	Moffat	14.20
	Montezuma	21.52
	Montrose	54.97
	Morgan	30.84
	Otero	13.33
	Ouray	54.28
	Park	29.86
	Phillips	30.07
	Pitkin	135.37
	Prowers	14.32
	Pueblo	18.27
	Rio Blanco	24.40
	Rio Grande	55.50
	Routt	55.82
	Saguache	33.73
	San Juan	28.58
	San Miguel	26.48
	Sedgwick	24.05
	Summit	75.09
	Teller	35.95
	Washington	19.51
	Weld	45.96
	Yuma	29.02
Connecticut	Fairfield	290.28
	Hartford	433.67
	Litchfield	304.47
	Middlesex	400.99
	New Haven	631.70
	New London	308.37
	Tolland	260.94
	Windham	254.19
Delaware	Kent	216.57
	New Castle	259.65
	Sussex	231.60
Florida	Alachua	159.68
	Baker	93.54
	Bay	41.82
	Bradford	97.40
	Brevard	102.49
	Broward	675.68
	Calhoun	43.92
	Charlotte	146.31
	Citrus	161.66
	Clay	116.75
	Collier	96.83
	Columbia	88.92
	Dade	763.56
	DeSoto	102.11
	Dixie	75.89
	Duval	153.38
	Escambia	126.53
	Flagler	113.46
	Franklin	120.31
	Gadsden	86.77
	Gilchrist	108.49
	Glades	87.83
	Gulf	29.26
	Hamilton	78.80
	Hardee	108.81
	Hendry	99.90
	Hernando	213.84
	Highlands	79.64
	Hillsborough	238.10
	Holmes	67.98
	Indian River	117.13
	Jackson	75.32
	Jefferson	70.71
	Lafayette	61.66
	Lake	161.72
	Lee	248.87
	Leon	86.98
	Levy	93.95
	Liberty	79.84
	Madison	71.91
	Manatee	158.71
	Marion	226.60
	Martin	89.63
	Monroe	120.31
	Nassau	76.34
	Okaloosa	97.11
	Okeechobee	86.10
	Orange	171.92
	Osceola	79.11
	Palm Beach	170.84
	Pasco	146.00
	Pinellas	1,171.62
	Polk	123.64
	Putnam	81.09
	Santa Rosa	109.32
	Sarasota	187.47
	Seminole	168.64
	St. Johns	173.45
	St. Lucie	121.84
	Sumter	122.84
	Suwannee	90.08
	Taylor	74.42
	Union	75.89
	Volusia	210.19
	Wakulla	69.73
	Walton	76.89
	Washington	77.89
Georgia	Appling	85.06
	Atkinson	76.03
	Bacon	107.76
	Baker	58.17
	Baldwin	56.68
	Banks	140.87
	Barrow	171.66
	Bartow	157.73
	Ben Hill	64.64
	Berrien	81.89
	Bibb	104.88
	Bleckley	67.54
	Brantley	76.42
	Brooks	91.53
	Bryan	80.56
	Bulloch	74.98
	Burke	74.43
	Butts	102.02
	Calhoun	78.91
	Camden	75.01
	Candler	82.73
	Carroll	125.30
	Catoosa	144.07
	Charlton	63.54
	Chatham	132.94
	Chattahoochee	77.44
	Chattooga	92.73
	Cherokee	227.11
	Clarke	202.50
	Clay	61.97
	Clayton	218.73
	Clinch	104.27
	Cobb	299.11
	Coffee	78.96
	Colquitt	86.60
	Columbia	116.55
	Cook	79.53
	Coweta	126.32
	Crawford	105.48
	Crisp	80.24
	Dade	104.22
	Dawson	182.81
	Decatur	85.35
	DeKalb	1,228.70
	Dodge	68.07
	Dooly	76.50
	Dougherty	101.29
	Douglas	175.27
	Early	67.26
	Echols	73.07

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Effingham	85.08
	Elbert	102.76
	Emanuel	54.74
	Evans	70.66
	Fannin	154.51
	Fayette	142.44
	Floyd	127.39
	Forsyth	206.27
	Franklin	150.48
	Fulton	499.07
	Gilmer	200.46
	Glascock	41.68
	Glynn	403.46
	Gordon	171.35
	Grady	98.44
	Greene	93.88
	Gwinnett	244.49
	Habersham	187.45
	Hall	244.31
	Hancock	54.77
	Haralson	124.35
	Harris	113.15
	Hart	147.18
	Heard	94.54
	Henry	195.88
	Houston	105.27
	Irwin	85.06
	Jackson	166.77
	Jasper	91.13
	Jeff Davis	65.58
	Jefferson	67.81
	Jenkins	68.59
	Johnson	54.79
	Jones	73.46
	Lamar	91.66
	Lanier	79.33
	Laurens	54.87
	Lee	88.59
	Liberty	138.47
	Lincoln	81.81
	Long	87.99
	Lowndes	142.71
	Lumpkin	155.12
	Macon	84.22
	Madison	148.28
	Marion	62.18
	McDuffie	78.38
	McIntosh	62.10
	Meriwether	85.40
	Miller	84.88
	Mitchell	96.92
	Monroe	85.84
	Montgomery	67.65
	Morgan	122.34
	Murray	132.68
	Muscogee	130.98
	Newton	117.16
	Oconee	189.41
	Oglethorpe	113.96
	Paulding	151.35
	Peach	150.95
	Pickens	223.29
	Pierce	75.32
	Pike	128.20
	Polk	94.67
	Pulaski	69.93
	Putnam	110.11
	Quitman	60.40
	Rabun	215.72
	Randolph	74.14
	Richmond	96.34
	Rockdale	184.83
	Schley	74.56
	Screven	57.60
	Seminole	82.23
	Spalding	134.07
	Stephens	151.16
	Stewart	54.17
	Sumter	74.85
	Talbot	71.60

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Taliaferro	86.18
	Tattnall	101.42
	Taylor	54.43
	Telfair	57.86
	Terrell	73.38
	Thomas	95.29
	Tift	83.10
	Toombs	72.78
	Towns	143.91
	Treutlen	49.30
	Troup	84.98
	Turner	80.74
	Twiggs	63.28
	Union	151.08
	Upson	103.52
	Walker	110.98
	Walton	148.28
	Ware	67.15
	Warren	78.07
	Washington	55.13
	Wayne	54.45
	Webster	63.93
	Wheeler	47.88
	White	212.74
	Whitfield	161.92
	Wilcox	68.28
	Wilkes	90.24
	Wilkinson	53.67
	Worth	78.62
Hawaii	Hawaii	156.43
	Honolulu	559.34
	Kauai	202.63
	Maui	258.67
Idaho	Ada	128.41
	Adams	20.93
	Bannock	26.37
	Bear Lake	19.43
	Benewah	26.14
	Bingham	34.35
	Blaine	34.16
	Boise	19.35
	Bonner	67.99
	Bonneville	39.36
	Boundary	64.59
	Butte	27.72
	Camas	18.11
	Canyon	111.25
	Caribou	25.06
	Cassia	43.07
	Clark	23.69
	Clearwater	33.34
	Custer	36.80
	Elmore	33.65
	Franklin	31.39
	Fremont	37.36
	Gem	38.01
	Gooding	81.22
	Idaho	22.20
	Jefferson	47.55
	Jerome	81.54
	Kootenai	74.60
	Latah	34.32
	Lemhi	34.10
	Lewis	26.52
	Lincoln	49.29
	Madison	56.19
	Minidoka	61.28
	Nez Perce	28.07
	Oneida	22.39
	Owyhee	21.98
	Payette	47.32
	Power	33.31
	Shoshone	90.66
	Teton	53.38
	Twin Falls	59.93
	Valley	35.02
	Washington	18.28
Illinois	Adams	185.37
	Alexander	97.53
	Bond	195.85

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Boone	222.55
	Brown	159.50
	Bureau	234.18
	Calhoun	119.35
	Carroll	229.05
	Cass	182.29
	Champaign	265.46
	Christian	246.11
	Clark	162.63
	Clay	145.91
	Clinton	197.39
	Coles	224.38
	Cook	587.93
	Crawford	149.70
	Cumberland	180.75
	De Witt	238.96
	DeKalb	268.40
	Douglas	258.45
	DuPage	478.87
	Edgar	211.55
	Edwards	153.06
	Effingham	188.13
	Fayette	153.80
	Ford	221.36
	Franklin	127.07
	Fulton	176.45
	Gallatin	151.21
	Greene	176.20
	Grundy	252.67
	Hamilton	137.05
	Hancock	202.04
	Hardin	93.48
	Henderson	198.33
	Henry	225.14
	Iroquois	209.36
	Jackson	153.46
	Jasper	160.52
	Jefferson	118.47
	Jersey	180.35
	Jo Daviess	174.09
	Johnson	105.45
	Kane	300.82
	Kankakee	222.87
	Kendall	258.11
	Knox	208.53
	La Salle	259.99
	Lake	346.15
	Lawrence	160.98
	Lee	246.97
	Livingston	234.49
	Logan	238.76
	Macon	263.55
	Macoupin	205.00
	Madison	248.05
	Marion	139.18
	Marshall	230.07
	Mason	198.96
	Massac	110.29
	McDonough	208.96
	McHenry	271.84
	McLean	280.48
	Menard	222.44
	Mercer	186.65
	Monroe	189.73
	Montgomery	207.31
	Morgan	234.97
	Moultrie	248.94
	Ogle	245.00
	Peoria	224.86
	Perry	136.25
	Piatt	263.84
	Pike	168.56
	Pope	99.47
	Pulaski	116.90
	Putnam	238.54
	Randolph	154.51
	Richland	150.44
	Rock Island	198.45
	Saline	137.45
	Sangamon	254.46

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Schuyler	156.25
	Scott	185.14
	Shelby	200.78
	St. Clair	211.33
	Stark	236.88
	Stephenson	240.02
	Tazewell	235.69
	Union	121.03
	Vermilion	233.72
	Wabash	157.65
	Warren	230.56
	Washington	182.98
	Wayne	135.74
	White	141.98
	Whiteside	224.86
	Will	253.24
	Williamson	112.63
	Winnebago	203.35
	Woodford	255.63
Indiana	Adams	234.96
	Allen	225.76
	Bartholomew	189.92
	Benton	219.62
	Blackford	187.56
	Boone	216.41
	Brown	124.66
	Carroll	214.08
	Cass	177.28
	Clark	156.61
	Clay	144.82
	Clinton	203.58
	Crawford	87.86
	Daviess	216.38
	Dearborn	138.04
	Decatur	201.14
	DeKalb	157.52
	Delaware	188.36
	Dubois	154.91
	Elkhart	317.42
	Fayette	160.61
	Floyd	154.93
	Fountain	191.17
	Franklin	161.01
	Fulton	179.24
	Gibson	184.13
	Grant	200.45
	Greene	140.62
	Hamilton	248.47
	Hancock	214.20
	Harrison	129.92
	Hendricks	216.90
	Henry	170.01
	Howard	220.50
	Huntington	194.63
	Jackson	150.36
	Jasper	183.33
	Jay	215.39
	Jefferson	117.59
	Jennings	129.60
	Johnson	191.54
	Knox	176.74
	Kosciusko	202.19
	LaGrange	262.64
	Lake	197.81
	LaPorte	208.86
	Lawrence	105.52
	Madison	230.24
	Marion	299.98
	Marshall	177.74
	Martin	110.35
	Miami	191.68
	Monroe	186.54
	Montgomery	198.32
	Morgan	178.59
	Newton	191.20
	Noble	181.57
	Ohio	124.04
	Orange	127.47
	Owen	129.01
	Parke	165.84

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Perry	113.96
	Pike	140.03
	Porter	192.13
	Posey	172.45
	Pulaski	174.64
	Putnam	182.73
	Randolph	182.22
	Ripley	146.61
	Rush	206.02
	Scott	152.43
	Shelby	197.22
	Spencer	130.88
	St. Joseph	229.65
	Starke	142.10
	Steuben	157.23
	Sullivan	141.33
	Switzerland	116.37
	Tippecanoe	256.34
	Tipton	231.92
	Union	180.04
	Vanderburgh	224.51
	Vermillion	161.12
	Vigo	154.05
	Wabash	178.62
	Warren	192.70
	Warrick	154.17
	Washington	127.81
	Wayne	155.96
	Wells	214.23
	White	221.92
	Whitley	180.12
Iowa	Adair	149.19
	Adams	142.26
	Allamakee	152.47
	Appanoose	115.96
	Audubon	195.86
	Benton	210.72
	Black Hawk	248.83
	Boone	227.24
	Bremer	227.95
	Buchanan	224.90
	Buena Vista	229.49
	Butler	204.50
	Calhoun	226.55
	Carroll	229.06
	Cass	168.16
	Cedar	224.16
	Cerro Gordo	209.41
	Cherokee	225.75
	Chickasaw	212.89
	Clarke	121.83
	Clay	227.78
	Clayton	158.18
	Clinton	215.20
	Crawford	193.23
	Dallas	233.03
	Davis	111.71
	Decatur	109.68
	Delaware	221.73
	Des Moines	197.11
	Dickinson	212.20
	Dubuque	246.26
	Emmet	204.87
	Fayette	204.70
	Floyd	209.92
	Franklin	222.90
	Fremont	171.21
	Greene	236.68
	Grundy	259.19
	Guthrie	179.74
	Hamilton	231.49
	Hancock	217.40
	Hardin	222.87
	Harrison	175.75
	Henry	178.77
	Howard	212.66
	Humboldt	230.72
	Ida	209.58
	Iowa	182.99
	Jackson	170.38

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Jasper	185.76
	Jefferson	157.98
	Johnson	229.26
	Jones	198.60
	Keokuk	166.51
	Kossuth	225.13
	Lee	147.36
	Linn	237.56
	Louisa	189.15
	Lucas	97.36
	Lyon	284.92
	Madison	161.68
	Mahaska	176.66
	Marion	164.62
	Marshall	216.80
	Mills	170.93
	Mitchell	224.36
	Monona	164.37
	Monroe	119.98
	Montgomery	162.03
	Muscatine	191.69
	O'Brien	277.47
	Osceola	249.94
	Page	153.18
	Palo Alto	228.61
	Plymouth	244.21
	Pocahontas	230.03
	Polk	252.20
	Pottawattamie	193.52
	Poweshiek	191.35
	Ringgold	109.94
	Sac	226.58
	Scott	273.51
	Shelby	195.49
	Sioux	296.81
	Story	270.05
	Tama	206.98
	Taylor	137.27
	Union	127.17
	Van Buren	133.33
	Wapello	139.09
	Warren	160.77
	Washington	196.51
	Wayne	121.29
	Webster	226.72
	Winnebago	199.37
	Winneshiek	182.59
	Woodbury	210.38
	Worth	198.43
	Wright	216.03
Kansas	Allen	57.30
	Anderson	57.55
	Atchison	85.85
	Barber	40.55
	Barton	44.34
	Bourbon	56.71
	Brown	99.04
	Butler	64.05
	Chase	53.97
	Chautauqua	46.06
	Cherokee	62.44
	Cheyenne	41.71
	Clark	33.52
	Clay	76.59
	Cloud	65.01
	Coffey	51.54
	Comanche	32.73
	Cowley	52.22
	Crawford	56.88
	Decatur	41.17
	Dickinson	60.43
	Doniphan	96.89
	Douglas	114.99
	Edwards	52.05
	Elk	43.63
	Ellis	38.10
	Ellsworth	45.41
	Finney	44.20
	Ford	43.69
	Franklin	67.86

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Geary	64.98
	Gove	36.74
	Graham	36.29
	Grant	44.51
	Gray	45.07
	Greeley	39.99
	Greenwood	47.08
	Hamilton	30.10
	Harper	46.37
	Harvey	89.44
	Haskell	43.12
	Hodgeman	33.21
	Jackson	75.60
	Jefferson	82.01
	Jewell	58.18
	Johnson	106.55
	Kearny	40.72
	Kingman	45.72
	Kiowa	44.37
	Labette	59.90
	Lane	35.98
	Leavenworth	96.61
	Lincoln	48.77
	Linn	72.13
	Logan	38.01
	Lyon	56.14
	Marion	57.67
	Marshall	87.38
	McPherson	77.35
	Meade	41.68
	Miami	87.40
	Mitchell	52.75
	Montgomery	56.76
	Morris	45.81
	Morton	28.92
	Nemaha	84.89
	Neosho	55.44
	Ness	30.61
	Norton	38.44
	Osage	56.25
	Osborne	39.82
	Ottawa	56.79
	Pawnee	46.82
	Phillips	40.72
	Pottawatomie	69.50
	Pratt	58.03
	Rawlins	43.55
	Reno	60.41
	Republic	73.03
	Rice	57.50
	Riley	85.34
	Rooks	35.33
	Rush	36.68
	Russell	37.81
	Saline	66.96
	Scott	42.78
	Sedgwick	97.82
	Seward	39.82
	Shawnee	84.52
	Sheridan	44.17
	Sherman	49.73
	Smith	53.91
	Stafford	50.92
	Stanton	30.05
	Stevens	39.17
	Sumner	51.91
	Thomas	49.34
	Trego	32.22
	Wabaunsee	54.42
	Wallace	38.18
	Washington	68.51
	Wichita	39.56
	Wilson	54.98
	Woodson	46.94
	Wyandotte	190.40
Kentucky	Adair	85.49
	Allen	98.40
	Anderson	105.53
	Ballard	102.72
	Barren	102.37

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Bath	67.07
	Bell	56.56
	Boone	170.64
	Bourbon	161.55
	Boyd	68.35
	Boyle	105.73
	Bracken	71.00
	Breathitt	44.59
	Breckinridge	87.74
	Bullitt	146.68
	Butler	75.26
	Caldwell	94.90
	Calloway	117.15
	Campbell	143.81
	Carlisle	107.94
	Carroll	96.43
	Carter	54.94
	Casey	66.59
	Christian	136.91
	Clark	125.94
	Clay	51.56
	Clinton	79.24
	Crittenden	78.07
	Cumberland	58.35
	Daviess	141.71
	Edmonson	90.32
	Elliott	46.01
	Estill	68.33
	Fayette	415.49
	Fleming	75.12
	Floyd	87.77
	Franklin	112.75
	Fulton	104.42
	Gallatin	80.86
	Garrard	82.91
	Grant	94.05
	Graves	108.71
	Grayson	84.01
	Green	73.75
	Greenup	70.23
	Hancock	84.61
	Hardin	130.57
	Harlan	44.45
	Harrison	88.11
	Hart	87.48
	Henderson	144.84
	Henry	109.74
	Hickman	114.08
	Hopkins	95.84
	Jackson	66.96
	Jefferson	349.47
	Jessamine	188.72
	Johnson	85.29
	Kenton	159.07
	Knott	36.35
	Knox	68.04
	Larue	100.87
	Laurel	95.01
	Lawrence	45.45
	Lee	58.18
	Leslie	108.57
	Letcher	85.26
	Lewis	59.57
	Lincoln	92.26
	Livingston	79.92
	Logan	137.25
	Lyon	88.70
	Madison	98.57
	Magoffin	58.83
	Marion	98.96
	Marshall	107.89
	Martin	98.08
	Mason	84.04
	McCracken	126.65
	McCreary	69.77
	McLean	126.93
	Meade	123.01
	Menifee	54.94
	Mercer	111.55
	Metcalfe	76.08

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Monroe	80.92
	Montgomery	99.62
	Morgan	55.37
	Muhlenberg	85.15
	Nelson	115.42
	Nicholas	65.99
	Ohio	97.14
	Oldham	226.35
	Owen	80.46
	Owsley	38.14
	Pendleton	80.72
	Perry	32.57
	Pike	40.19
	Powell	66.34
	Pulaski	92.03
	Robertson	62.16
	Rockcastle	61.93
	Rowan	78.73
	Russell	87.91
	Scott	159.02
	Shelby	165.10
	Simpson	161.29
	Spencer	129.09
	Taylor	86.34
	Todd	147.37
	Trigg	116.81
	Trimble	92.23
	Union	143.22
	Warren	151.60
	Washington	91.29
	Wayne	75.77
	Webster	104.68
	Whitley	71.96
	Wolfe	57.30
	Woodford	230.53
Louisiana	Acadia	71.89
	Allen	66.79
	Ascension	94.38
	Assumption	76.63
	Avoyelles	66.22
	Beauregard	79.10
	Bienville	66.30
	Bossier	81.26
	Caddo	77.65
	Calcasieu	90.58
	Caldwell	65.26
	Cameron	64.50
	Catahoula	70.33
	Claiborne	62.18
	Concordia	72.93
	De Soto	77.20
	East Baton Rouge.	214.77
	East Carroll	96.65
	East Feliciana	72.86
	Evangeline	63.54
	Franklin	73.82
	Grant	71.27
	Iberia	74.65
	Iberville	46.75
	Jackson	104.20
	Jefferson	60.75
	Jefferson Davis	57.97
	La Salle	82.90
	Lafayette	145.27
	Lafourche	75.46
	Lincoln	83.55
	Livingston	139.28
	Madison	71.55
	Morehouse	82.77
	Natchitoches	60.78
	Orleans	269.54
	Ouachita	110.91
	Plaquemines	36.73
	Pointe Coupee	80.46
	Rapides	97.53
	Red River	58.25
	Richland	73.69
	Sabine	98.37
	St. Bernard	45.60

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	St. Charles	90.87
	St. Helena	108.26
	St. James	79.70
	St. John the Baptist.	91.10
	St. Landry	75.98
	St. Martin	83.42
	St. Mary	85.85
	St. Tammany	279.32
	Tangipahoa	131.74
	Tensas	72.96
	Terrebonne	107.19
	Union	79.23
	Vermilion	74.89
	Vernon	96.39
	Washington	94.02
	Webster	76.50
	West Baton Rouge.	73.40
	West Carroll	85.79
	West Feliciana	76.40
	Winn	72.99
Maine	Androscoggin	94.04
	Aroostook	46.43
	Cumberland	182.16
	Franklin	66.25
	Hancock	74.52
	Kennebec	80.63
	Knox	126.02
	Lincoln	123.86
	Oxford	77.72
	Penobscot	65.77
	Piscataquis	37.55
	Sagadahoc	110.26
	Somerset	39.37
	Waldo	79.96
	Washington	40.91
	York	136.56
Maryland	Allegany	156.34
	Anne Arundel	288.30
	Baltimore	414.47
	Calvert	286.76
	Caroline	199.23
	Carroll	228.64
	Cecil	224.14
	Charles	264.42
	Dorchester	158.69
	Frederick	266.21
	Garrett	127.52
	Harford	304.91
	Howard	255.98
	Kent	184.77
	Montgomery	229.62
	Prince George's	227.35
	Queen Anne's	205.18
	Somerset	160.09
	St. Mary's	278.15
	Talbot	196.49
	Washington	225.26
	Wicomico	196.66
	Worcester	148.18
Massachusetts	Barnstable	767.18
	Berkshire	191.93
	Bristol	456.62
	Dukes	286.96
	Essex	438.14
	Franklin	161.17
	Hampden	259.69
	Hampshire	192.38
	Middlesex	400.33
	Nantucket	982.34
	Norfolk	430.61
	Plymouth	240.41
	Suffolk	5,772.37
	Worcester	308.76
Michigan	Alcona	71.88
	Alger	56.61
	Allegan	165.99
	Alpena	70.63
	Antrim	116.64
	Arenac	93.11
	Baraga	60.75
	Barry	133.24
	Bay	140.20
	Benzie	109.93
	Berrien	178.86
	Branch	117.56
	Calhoun	147.34
	Cass	128.27
	Charlevoix	104.63
	Cheboygan	71.10
	Chippewa	60.06
	Clare	83.56
	Clinton	156.94
	Crawford	97.19
	Delta	49.54
	Dickinson	75.68
	Eaton	115.89
	Emmet	104.54
	Genesee	146.03
	Gladwin	108.48
	Gogebic	72.18
	Grand Traverse	176.56
	Gratiot	150.75
	Hillsdale	119.58
	Houghton	65.33
	Huron	167.84
	Ingham	147.78
	Ionia	137.51
	Iosco	87.50
	Iron	54.84
	Isabella	113.76
	Jackson	138.37
	Kalamazoo	195.79
	Kalkaska	73.65
	Kent	204.81
	Keweenaw	93.66
	Lake	68.33
	Lapeer	127.85
	Leelanau	203.17
	Lenawee	145.03
	Livingston	158.21
	Luce	69.96
	Mackinac	55.42
	Macomb	141.40
	Manistee	80.04
	Marquette	61.22
	Mason	86.34
	Mecosta	97.27
	Menominee	58.97
	Midland	153.80
	Missaukee	101.52
	Monroe	170.84
	Montcalm	110.76
	Montmorency	59.56
	Muskegon	178.31
	Newaygo	107.93
	Oakland	322.56
	Oceana	115.42
	Ogemaw	77.62
	Ontonagon	44.32
	Osceola	83.34
	Oscoda	76.07
	Otsego	77.15
	Ottawa	229.54
	Presque Isle	65.08
	Roscommon	68.02
	Saginaw	161.10
	Sanilac	136.82
	Schoolcraft	50.51
	Shiawassee	125.19
	St. Clair	145.81
	St. Joseph	158.66
	Tuscola	144.78
	Van Buren	160.66
	Washtenaw	217.10
	Wayne	320.84
	Wexford	93.47
Minnesota	Aitkin	59.93
	Anoka	215.70
	Becker	82.58
	Beltrami	55.87
	Benton	124.76
	Big Stone	123.56
	Blue Earth	204.67
	Brown	186.82
	Carlton	61.24
	Carver	191.60
	Cass	71.13
	Chippewa	167.50
	Chisago	130.01
	Clay	112.20
	Clearwater	57.58
	Cook	168.44
	Cottonwood	179.63
	Crow Wing	76.39
	Dakota	196.14
	Dodge	195.86
	Douglas	112.14
	Faribault	193.22
	Fillmore	157.84
	Freeborn	171.36
	Goodhue	176.31
	Grant	125.13
	Hennepin	382.63
	Houston	121.91
	Hubbard	75.20
	Isanti	110.46
	Itasca	80.77
	Jackson	182.96
	Kanabec	75.37
	Kandiyohi	148.29
	Kittson	63.91
	Koochiching	41.01
	Lac qui Parle	127.26
	Lake	103.13
	Lake of the Woods.	48.23
	Le Sueur	175.48
	Lincoln	137.43
	Lyon	166.30
	Mahnomen	83.98
	Marshall	70.31
	Martin	190.74
	McLeod	162.67
	Meeker	147.49
	Mille Lacs	88.15
	Morrison	94.06
	Mower	193.61
	Murray	175.23
	Nicollet	198.99
	Nobles	196.40
	Norman	93.81
	Olmsted	189.18
	Otter Tail	84.37
	Pennington	54.79
	Pine	67.18
	Pipestone	165.76
	Polk	93.21
	Pope	117.77
	Ramsey	757.24
	Red Lake	67.35
	Redwood	177.30
	Renville	186.42
	Rice	194.86
	Rock	216.86
	Roseau	49.53
	Scott	215.70
	Sherburne	146.50
	Sibley	191.71
	St. Louis	56.61
	Stearns	146.33
	Steele	176.22
	Stevens	144.28
	Swift	143.31
	Todd	78.01
	Traverse	141.50
	Wabasha	156.84
	Wadena	62.52
	Waseca	188.16

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Washington	247.10
	Watonwan	201.69
	Wilkin	110.04
	Winona	163.49
	Wright	183.04
	Yellow Medicine	153.69
Mississippi	Adams	78.59
	Alcorn	56.77
	Amite	85.04
	Attala	49.18
	Benton	51.31
	Bolivar	80.59
	Calhoun	47.31
	Carroll	56.96
	Chickasaw	53.36
	Choctaw	49.05
	Claiborne	72.14
	Clarke	59.59
	Clay	50.00
	Coahoma	88.10
	Copiah	68.28
	Covington	96.04
	DeSoto	80.16
	Forrest	113.06
	Franklin	84.56
	George	99.40
	Greene	67.35
	Grenada	58.61
	Hancock	102.86
	Harrison	223.09
	Hinds	87.70
	Holmes	64.60
	Humphreys	87.11
	Issaquena	72.92
	Itawamba	45.61
	Jackson	133.52
	Jasper	74.73
	Jefferson	67.13
	Jefferson Davis	68.47
	Jones	100.86
	Kemper	53.87
	Lafayette	73.00
	Lamar	94.52
	Lauderdale	54.75
	Lawrence	85.54
	Leake	80.64
	Lee	48.81
	Leflore	77.31
	Lincoln	81.81
	Lowndes	67.40
	Madison	70.01
	Marion	76.75
	Marshall	64.02
	Monroe	58.56
	Montgomery	53.25
	Neshoba	70.97
	Newton	63.16
	Noxubee	67.48
	Oktibbeha	74.49
	Panola	65.62
	Pearl River	94.44
	Perry	85.52
	Pike	99.26
	Pontotoc	52.43
	Prentiss	54.51
	Quitman	76.22
	Rankin	87.91
	Scott	67.83
	Sharkey	88.18
	Simpson	73.47
	Smith	76.54
	Stone	88.13
	Sunflower	84.82
	Tallahatchie	75.13
	Tate	75.26
	Tippah	55.20
	Tishomingo	50.35
	Tunica	78.72
	Union	53.25
	Walthall	82.69

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Warren	64.66
	Washington	98.78
	Wayne	82.48
	Webster	48.83
	Wilkinson	63.96
	Winston	60.66
	Yalobusha	49.66
	Yazoo	74.30
Missouri	Adair	77.90
	Andrew	107.23
	Atchison	136.81
	Audrain	118.75
	Barry	95.68
	Barton	76.82
	Bates	86.22
	Benton	76.37
	Bollinger	69.95
	Boone	157.76
	Buchanan	113.09
	Butler	131.00
	Caldwell	88.45
	Callaway	110.49
	Camden	61.61
	Cape Girardeau	121.18
	Carroll	99.89
	Carter	53.27
	Cass	104.89
	Cedar	69.45
	Chariton	95.96
	Christian	112.36
	Clark	99.75
	Clay	116.33
	Clinton	103.83
	Cole	101.73
	Cooper	91.19
	Crawford	72.07
	Dade	78.32
	Dallas	70.82
	Daviess	91.10
	DeKalb	91.32
	Dent	58.34
	Douglas	58.60
	Dunklin	142.02
	Franklin	107.82
	Gasconade	77.76
	Gentry	86.44
	Greene	132.40
	Grundy	81.70
	Harrison	77.23
	Henry	75.06
	Hickory	58.82
	Holt	136.53
	Howard	84.35
	Howell	59.82
	Iron	57.62
	Jackson	162.23
	Jasper	89.87
	Jefferson	117.19
	Johnson	93.31
	Knox	84.88
	Laclede	70.23
	Lafayette	126.54
	Lawrence	89.23
	Lewis	92.41
	Lincoln	121.68
	Linn	80.44
	Livingston	94.09
	Macon	89.12
	Madison	58.57
	Maries	55.00
	Marion	110.66
	McDonald	74.83
	Mercer	75.14
	Miller	69.67
	Mississippi	162.87
	Moniteau	99.61
	Monroe	99.31
	Montgomery	105.22
	Morgan	107.06
	New Madrid	156.00

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Newton	101.54
	Nodaway	111.94
	Oregon	49.69
	Osage	67.38
	Ozark	59.52
	Pemiscot	146.07
	Perry	91.32
	Pettis	97.66
	Phelps	73.55
	Pike	98.11
	Platte	123.58
	Polk	70.45
	Pulaski	62.42
	Putnam	70.31
	Ralls	107.42
	Randolph	96.57
	Ray	98.11
	Reynolds	44.62
	Ripley	68.25
	Saline	111.89
	Schuyler	72.02
	Scotland	94.03
	Scott	141.94
	Shannon	54.77
	Shelby	104.05
	St Louis	121.32
	St. Charles	136.30
	St. Clair	68.44
	St. Francois	81.84
	Ste. Genevieve	82.34
	Stoddard	149.36
	Stone	80.75
	Sullivan	65.24
	Taney	62.36
	Texas	57.65
	Vernon	79.27
	Warren	112.95
	Washington	66.18
	Wayne	65.57
	Webster	86.55
	Worth	79.35
	Wright	60.21
Montana	Beaverhead	28.32
	Big Horn	8.45
	Blaine	12.73
	Broadwater	25.16
	Carbon	31.91
	Carter	11.57
	Cascade	26.06
	Chouteau	20.06
	Custer	11.53
	Daniels	13.63
	Dawson	14.36
	Deer Lodge	41.78
	Fallon	12.99
	Fergus	23.52
	Flathead	137.39
	Gallatin	65.16
	Garfield	8.69
	Glacier	25.09
	Golden Valley	14.41
	Granite	34.79
	Hill	18.51
	Jefferson	36.60
	Judith Basin	19.98
	Lake	34.53
	Lewis and Clark	28.08
	Liberty	19.29
	Lincoln	112.89
	Madison	36.77
	McCone	11.35
	Meagher	19.53
	Mineral	107.56
	Missoula	60.12
	Musselshell	13.74
	Park	56.10
	Petroleum	14.58
	Phillips	11.40
	Pondera	25.95
	Powder River	11.85

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Powell	27.85
	Prairie	16.64
	Ravalli	123.30
	Richland	18.86
	Roosevelt	15.53
	Rosebud	9.25
	Sanders	21.25
	Sheridan	14.92
	Silver Bow	48.40
	Stillwater	28.90
	Sweet Grass	24.43
	Teton	25.50
	Toole	18.86
	Treasure	12.43
	Valley	13.85
	Wheatland	14.90
	Wibaux	13.27
	Yellowstone	21.57
Nebraska	Adams	137.57
	Antelope	118.58
	Arthur	20.70
	Banner	22.54
	Blaine	25.66
	Boone	114.99
	Box Butte	34.48
	Boyd	52.41
	Brown	30.29
	Buffalo	113.54
	Burt	159.21
	Butler	147.14
	Cass	144.91
	Cedar	133.93
	Chase	53.89
	Cherry	24.11
	Cheyenne	26.36
	Clay	125.35
	Colfax	160.09
	Cuming	157.32
	Custer	63.97
	Dakota	146.18
	Dawes	22.98
	Dawson	88.18
	Deuel	33.73
	Dixon	120.85
	Dodge	165.72
	Douglas	197.56
	Dundy	39.54
	Fillmore	140.80
	Franklin	89.48
	Frontier	48.56
	Furnas	63.76
	Gage	114.42
	Garden	22.38
	Garfield	38.33
	Gosper	72.68
	Grant	21.63
	Greeley	76.63
	Hall	131.37
	Hamilton	163.88
	Harlan	74.38
	Hayes	36.57
	Hitchcock	40.68
	Holt	61.51
	Hooker	19.00
	Howard	90.23
	Jefferson	107.28
	Johnson	93.84
	Kearney	135.22
	Keith	42.02
	Keya Paha	36.60
	Kimball	27.78
	Knox	86.45
	Lancaster	144.68
	Lincoln	43.26
	Logan	31.01
	Loup	30.06
	Madison	150.39
	McPherson	21.17
	Merrick	131.14
	Morrill	29.59

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Nance	109.25
	Nemaha	117.54
	Nuckolls	92.73
	Otoe	128.11
	Pawnee	83.84
	Perkins	55.31
	Phelps	132.17
	Pierce	125.92
	Platte	163.55
	Polk	152.77
	Red Willow	50.32
	Richardson	110.28
	Rock	29.41
	Saline	121.89
	Sarpy	192.26
	Saunders	145.79
	Scotts Bluff	52.67
	Seward	147.58
	Sheridan	25.07
	Sherman	69.16
	Sioux	23.29
	Stanton	128.99
	Thayer	101.31
	Thomas	20.16
	Thurston	124.75
	Valley	74.38
	Washington	168.49
	Wayne	142.46
	Webster	70.79
	Wheeler	39.49
	York	177.76
Nevada	Carson City	6.57
	Churchill	13.85
	Clark	22.48
	Douglas	14.86
	Elko	3.97
	Esmeralda	15.06
	Eureka	3.62
	Humboldt	6.41
	Lander	7.59
	Lincoln	18.63
	Lyon	16.53
	Mineral	2.12
	Nye	12.52
	Pershing	5.79
	Storey	6.57
	Washoe	7.42
	White Pine	9.59
New Hampshire	Belknap	133.27
	Carroll	106.55
	Cheshire	102.81
	Coos	69.53
	Grafton	105.96
	Hillsborough	210.85
	Merrimack	157.24
	Rockingham	305.94
	Strafford	176.09
	Sullivan	129.96
New Jersey	Atlantic	326.48
	Bergen	2,544.38
	Burlington	257.11
	Camden	419.97
	Cape May	372.44
	Cumberland	250.69
	Essex	2,159.58
	Gloucester	324.23
	Hudson	1,286.78
	Hunterdon	399.45
	Mercer	463.32
	Middlesex	556.91
	Monmouth	536.68
	Morris	548.04
	Ocean	486.78
	Passaic	817.30
	Salem	215.37
	Somerset	505.83
	Sussex	295.04
	Union	4,001.49
	Warren	311.64
New Mexico	Bernalillo	56.63

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Catron	8.62
	Chaves	9.71
	Cibola	6.51
	Colfax	10.37
	Curry	14.27
	De Baca	7.70
	Dona Ana	50.99
	Eddy	12.13
	Grant	10.00
	Guadalupe	6.38
	Harding	7.51
	Hidalgo	10.69
	Lea	8.46
	Lincoln	10.22
	Los Alamos	10.69
	Luna	10.57
	McKinley	8.79
	Mora	11.33
	Otero	9.01
	Quay	7.23
	Rio Arriba	17.61
	Roosevelt	9.38
	San Juan	10.96
	San Miguel	8.25
	Sandoval	9.22
	Santa Fe	18.08
	Sierra	7.41
	Socorro	12.89
	Taos	33.56
	Torrance	9.79
	Union	8.48
	Valencia	23.85
New York	Albany	123.24
	Allegany	55.80
	Bronx	89.50
	Broome	85.62
	Cattaraugus	63.50
	Cayuga	109.63
	Chautauqua	73.31
	Chemung	72.59
	Chenango	56.99
	Clinton	73.31
	Columbia	116.08
	Cortland	64.31
	Delaware	79.83
	Dutchess	250.57
	Erie	126.84
	Essex	66.02
	Franklin	68.94
	Fulton	77.36
	Genesee	92.72
	Greene	87.48
	Hamilton	92.61
	Herkimer	63.45
	Jefferson	74.20
	Kings	12,295.95
	Lewis	55.69
	Livingston	102.89
	Madison	72.65
	Monroe	119.35
	Montgomery	68.88
	Nassau	481.25
	New York	89.50
	Niagara	85.10
	Oneida	73.70
	Onondaga	114.25
	Ontario	111.62
	Orange	192.25
	Orleans	87.95
	Oswego	61.34
	Otsego	73.90
	Putnam	166.34
	Queens	1,344.81
	Rensselaer	97.37
	Richmond	89.50
	Rockland	797.51
	Saratoga	163.26
	Schenectady	118.86
	Schoharie	67.49
	Schuyler	90.64

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Seneca	104.11
	St. Lawrence	50.78
	Steuben	58.18
	Suffolk	338.69
	Sullivan	116.78
	Tioga	63.34
	Tompkins	105.02
	Ulster	191.23
	Warren	115.70
	Washington	77.44
	Wayne	95.27
	Westchester	295.09
	Wyoming	95.99
	Yates	144.88
North Carolina	Alamance	166.99
	Alexander	156.75
	Alleghany	137.41
	Anson	113.72
	Ashe	146.34
	Avery	180.74
	Beaufort	95.19
	Bertie	84.39
	Bladen	92.79
	Brunswick	109.10
	Buncombe	276.90
	Burke	158.67
	Cabarrus	242.39
	Caldwell	126.30
	Camden	88.56
	Carteret	126.25
	Caswell	90.20
	Catawba	182.10
	Chatham	153.21
	Cherokee	136.54
	Chowan	97.24
	Clay	174.70
	Cleveland	129.81
	Columbus	90.84
	Craven	109.57
	Cumberland	143.78
	Currituck	136.54
	Dare	117.09
	Davidson	161.34
	Davie	141.64
	Duplin	133.54
	Durham	296.58
	Edgecombe	84.86
	Forsyth	259.03
	Franklin	98.97
	Gaston	170.92
	Gates	100.89
	Graham	133.26
	Granville	96.97
	Greene	109.80
	Guilford	227.61
	Halifax	71.42
	Harnett	155.16
	Haywood	179.82
	Henderson	215.86
	Hertford	89.03
	Hoke	122.52
	Hyde	82.77
	Iredell	151.35
	Jackson	228.08
	Johnston	131.95
	Jones	112.83
	Lee	160.42
	Lenoir	110.77
	Lincoln	159.50
	Macon	221.71
	Madison	138.02
	Martin	74.53
	McDowell	146.34
	Mecklenburg	954.30
	Mitchell	161.84
	Montgomery	132.01
	Moore	141.97
	Nash	128.78
	New Hanover	947.37
	Northampton	77.85

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Onslow	174.90
	Orange	186.08
	Pamlico	101.64
	Pasquotank	110.88
	Pender	148.87
	Perquimans	99.08
	Person	105.15
	Pitt	107.01
	Polk	179.29
	Randolph	140.61
	Richmond	121.49
	Robeson	92.26
	Rockingham	107.79
	Rowan	162.82
	Rutherford	133.09
	Sampson	136.13
	Scotland	100.19
	Stanly	128.00
	Stokes	113.67
	Surry	124.44
	Swain	101.81
	Transylvania	215.28
	Tyrrell	115.45
	Union	148.51
	Vance	82.88
	Wake	324.46
	Warren	80.96
	Washington	102.09
	Watauga	179.21
	Wayne	138.88
	Wilkes	142.61
	Wilson	105.32
	Yadkin	152.27
	Yancey	151.57
North Dakota	Adams	30.37
	Barnes	65.78
	Benson	38.94
	Billings	26.16
	Bottineau	44.01
	Bowman	29.26
	Burke	30.00
	Burleigh	54.08
	Cass	105.83
	Cavalier	59.21
	Dickey	67.60
	Divide	30.43
	Dunn	32.65
	Eddy	41.42
	Emmons	45.12
	Foster	57.16
	Golden Valley	29.94
	Grand Forks	97.09
	Grant	30.49
	Griggs	50.58
	Hettinger	39.99
	Kidder	35.81
	LaMoure	72.27
	Logan	33.90
	McHenry	31.00
	McIntosh	38.83
	McKenzie	29.20
	McLean	50.81
	Mercer	38.94
	Morton	39.96
	Mountrail	36.38
	Nelson	38.71
	Oliver	41.07
	Pembina	78.48
	Pierce	40.11
	Ramsey	51.49
	Ransom	57.27
	Renville	45.69
	Richland	90.77
	Rolette	36.43
	Sargent	79.33
	Sheridan	31.25
	Sioux	35.38
	Slope	30.09
	Stark	37.89
	Steele	62.54

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Stutsman	57.07
	Towner	39.42
	Traill	87.78
	Walsh	71.53
	Ward	46.48
	Wells	48.70
	Williams	31.20
Ohio	Adams	110.18
	Allen	205.94
	Ashland	172.42
	Ashtabula	124.11
	Athens	91.19
	Auglaize	231.05
	Belmont	108.67
	Brown	125.11
	Butler	234.29
	Carroll	133.68
	Champaign	203.50
	Clark	214.05
	Clermont	159.08
	Clinton	169.10
	Columbiana	163.73
	Coshocton	149.83
	Crawford	182.95
	Cuyahoga	463.02
	Darke	236.11
	Defiance	162.80
	Delaware	222.06
	Erie	185.73
	Fairfield	218.59
	Fayette	202.70
	Franklin	228.22
	Fulton	198.25
	Gallia	89.20
	Geauga	205.62
	Greene	202.64
	Guernsey	105.64
	Hamilton	377.28
	Hancock	171.48
	Hardin	167.11
	Harrison	93.94
	Henry	185.90
	Highland	142.50
	Hocking	128.48
	Holmes	219.70
	Huron	172.64
	Jackson	79.87
	Jefferson	155.08
	Knox	171.62
	Lake	231.65
	Lawrence	93.29
	Licking	187.77
	Logan	171.74
	Lorain	212.41
	Lucas	234.91
	Madison	196.80
	Mahoning	188.06
	Marion	165.69
	Medina	222.31
	Meigs	98.40
	Mercer	274.53
	Miami	210.62
	Monroe	92.75
	Montgomery	204.74
	Morgan	98.14
	Morrow	170.35
	Muskingum	116.39
	Noble	87.36
	Ottawa	153.52
	Paulding	177.67
	Perry	129.82
	Pickaway	171.23
	Pike	117.95
	Portage	184.79
	Preble	181.56
	Putnam	189.99
	Richland	213.00
	Ross	130.07
	Sandusky	168.19
	Scioto	89.06

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Seneca	167.14
	Shelby	218.20
	Stark	262.36
	Summit	379.32
	Trumbull	122.92
	Tuscarawas	157.66
	Union	180.22
	Van Wert	212.69
	Vinton	89.86
	Warren	222.06
	Washington	90.51
	Wayne	253.73
	Williams	146.48
	Wood	188.99
	Wyandot	161.95
Oklahoma	Adair	66.90
	Alfalfa	47.63
	Atoka	51.29
	Beaver	25.11
	Beckham	37.25
	Blaine	45.53
	Bryan	63.40
	Caddo	48.44
	Canadian	65.69
	Carter	56.77
	Cherokee	69.44
	Choctaw	49.61
	Cimarron	23.07
	Cleveland	135.67
	Coal	50.93
	Comanche	53.92
	Cotton	38.01
	Craig	58.87
	Creek	61.33
	Custer	40.61
	Delaware	76.32
	Dewey	38.34
	Ellis	27.80
	Garfield	48.55
	Garvin	53.61
	Grady	58.67
	Grant	44.89
	Greer	32.33
	Harmon	35.01
	Harper	30.79
	Haskell	53.19
	Hughes	44.61
	Jackson	39.10
	Jefferson	43.24
	Johnston	52.35
	Kay	46.01
	Kingfisher	53.78
	Kiowa	35.07
	Latimer	50.23
	Le Flore	60.46
	Lincoln	62.67
	Logan	62.65
	Love	68.66
	Major	41.50
	Marshall	67.74
	Mayes	77.75
	McClain	73.72
	McCurtain	59.88
	McIntosh	53.17
	Murray	59.79
	Muskogee	63.09
	Noble	49.75
	Nowata	57.70
	Okfuskee	47.91
	Oklahoma	181.23
	Okmulgee	61.86
	Osage	44.52
	Ottawa	77.64
	Pawnee	49.87
	Payne	67.71
	Pittsburg	49.00
	Pontotoc	60.63
	Pottawatomie	63.04
	Pushmataha	43.13
	Roger Mills	35.85

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Rogers	81.38
	Seminole	50.98
	Sequoyah	61.28
	Stephens	49.19
	Texas	28.33
	Tillman	37.11
	Tulsa	163.02
	Wagoner	79.23
	Washington	65.83
	Washita	41.56
	Woods	37.08
	Woodward	34.01
Oregon	Baker	24.75
	Benton	127.45
	Clackamas	425.89
	Clatsop	141.60
	Columbia	171.32
	Coos	60.34
	Crook	18.91
	Curry	70.10
	Deschutes	171.57
	Douglas	67.58
	Gilliam	14.25
	Grant	20.49
	Harney	13.50
	Hood River	275.68
	Jackson	168.15
	Jefferson	16.93
	Josephine	356.17
	Klamath	43.33
	Lake	21.40
	Lane	169.38
	Lincoln	108.84
	Linn	140.39
	Malheur	29.46
	Marion	244.82
	Morrow	22.31
	Multnomah	413.32
	Polk	140.87
	Sherman	16.83
	Tillamook	154.33
	Umatilla	36.11
	Union	35.87
	Wallowa	32.31
	Wasco	18.03
	Washington	338.49
	Wheeler	17.92
	Yamhill	201.49
Pennsylvania	Adams	193.70
	Allegheny	246.59
	Armstrong	102.50
	Beaver	170.19
	Bedford	114.66
	Berks	315.31
	Blair	189.79
	Bradford	101.91
	Bucks	264.64
	Butler	148.83
	Cambria	130.27
	Cameron	80.00
	Carbon	186.19
	Centre	188.47
	Chester	341.50
	Clarion	90.30
	Clearfield	101.49
	Clinton	183.91
	Columbia	169.59
	Crawford	93.98
	Cumberland	214.15
	Dauphin	247.29
	Delaware	404.93
	Elk	118.09
	Erie	126.89
	Fayette	116.49
	Forest	137.84
	Franklin	211.76
	Fulton	117.44
	Greene	102.50
	Huntingdon	135.42
	Indiana	101.27

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Jefferson	93.22
	Juniata	183.46
	Lackawanna	149.12
	Lancaster	514.35
	Lawrence	123.43
	Lebanon	405.07
	Lehigh	220.79
	Luzerne	170.55
	Lycoming	144.00
	McKean	80.11
	Mercer	112.43
	Mifflin	173.81
	Monroe	165.74
	Montgomery	544.59
	Montour	181.21
	Northampton	211.09
	Northumberland	165.18
	Perry	186.47
	Philadelphia	1,651.53
	Pike	62.62
	Potter	96.46
	Schuylkill	186.92
	Snyder	206.25
	Somerset	90.66
	Sullivan	115.08
	Susquehanna	133.34
	Tioga	106.81
	Union	270.02
	Venango	106.81
	Warren	97.36
	Washington	183.15
	Wayne	120.79
	Westmoreland	166.22
	Wyoming	116.57
	York	230.69
Puerto Rico	All Areas	152.36
Rhode Island	Bristol	1,072.48
	Kent	336.72
	Newport	580.59
	Providence	339.12
	Washington	323.71
South Carolina	Abbeville	85.52
	Aiken	104.06
	Allendale	60.94
	Anderson	156.76
	Bamberg	80.99
	Barnwell	76.93
	Beaufort	100.05
	Berkeley	73.84
	Calhoun	84.28
	Charleston	258.80
	Cherokee	92.92
	Chester	91.79
	Chesterfield	81.54
	Clarendon	62.81
	Colleton	83.70
	Darlington	71.71
	Dillon	63.28
	Dorchester	77.65
	Edgefield	97.43
	Fairfield	79.20
	Florence	87.45
	Georgetown	56.43
	Greenville	253.80
	Greenwood	94.36
	Hampton	67.37
	Horry	124.58
	Jasper	101.13
	Kershaw	85.33
	Lancaster	109.17
	Laurens	105.91
	Lee	66.74
	Lexington	152.84
	Marion	64.39
	Marlboro	53.23
	McCormick	55.36
	Newberry	91.54
	Oconee	176.37
	Orangeburg	83.37
	Pickens	194.74

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Richland	132.51
	Saluda	85.44
	Spartanburg	227.37
	Sumter	82.73
	Union	70.00
	Williamsburg	62.01
	York	192.78
South Dakota	Aurora	75.23
	Beadle	76.33
	Bennett	26.98
	Bon Homme	112.93
	Brookings	130.44
	Brown	95.29
	Brule	73.07
	Buffalo	43.79
	Butte	27.18
	Campbell	51.90
	Charles Mix	79.03
	Clark	89.29
	Clay	133.28
	Codington	98.27
	Corson	26.05
	Custer	45.24
	Davison	96.32
	Day	74.97
	Deuel	97.73
	Dewey	27.49
	Douglas	105.47
	Edmunds	69.73
	Fall River	20.29
	Faulk	72.19
	Grant	105.70
	Gregory	53.26
	Haakon	26.16
	Hamlin	111.28
	Hand	58.28
	Hanson	122.51
	Harding	18.85
	Hughes	53.60
	Hutchinson	127.41
	Hyde	43.28
	Jackson	24.80
	Jerauld	67.77
	Jones	32.40
	Kingsbury	107.99
	Lake	145.15
	Lawrence	50.71
	Lincoln	195.75
	Lyman	46.80
	Marshall	79.76
	McCook	123.78
	McPherson	61.05
	Meade	26.96
	Mellette	27.35
	Miner	100.14
	Minnehaha	182.79
	Moody	164.97
	Oglala Lakota	19.10
	Pennington	29.99
	Perkins	23.55
	Potter	59.92
	Roberts	85.23
	Sanborn	80.98
	Spink	88.78
	Stanley	26.11
	Sully	61.05
	Todd	24.09
	Tripp	45.92
	Turner	142.26
	Union	166.53
	Walworth	56.12
	Yankton	125.34
	Ziebach	24.23
Tennessee	Anderson	155.09
	Bedford	118.25
	Benton	70.63
	Bledsoe	97.76
	Blount	182.64
	Bradley	172.12
	Campbell	117.43

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Cannon	101.79
	Carroll	77.62
	Carter	147.54
	Cheatham	129.32
	Chester	72.08
	Claiborne	88.77
	Clay	94.59
	Cocke	125.63
	Coffee	116.49
	Crockett	95.49
	Cumberland	114.73
	Davidson	254.78
	Decatur	62.69
	DeKalb	96.03
	Dickson	119.22
	Dyer	95.47
	Fayette	95.72
	Fentress	98.53
	Franklin	116.38
	Gibson	100.49
	Giles	92.94
	Grainger	107.78
	Greene	127.50
	Grundy	98.16
	Hamblen	156.28
	Hamilton	279.53
	Hancock	75.54
	Hardeman	64.96
	Hardin	63.34
	Hawkins	105.77
	Haywood	94.19
	Henderson	71.57
	Henry	94.33
	Hickman	89.51
	Houston	91.75
	Humphreys	78.98
	Jackson	88.12
	Jefferson	146.12
	Johnson	112.75
	Knox	279.39
	Lake	99.64
	Lauderdale	96.06
	Lawrence	93.54
	Lewis	81.13
	Lincoln	103.95
	Loudon	161.47
	Macon	106.79
	Madison	92.60
	Marion	92.34
	Marshall	99.27
	Maury	114.56
	McMinn	132.41
	McNairy	62.52
	Meigs	94.42
	Monroe	120.67
	Montgomery	139.54
	Moore	102.76
	Morgan	86.78
	Obion	102.13
	Overton	95.75
	Perry	62.89
	Pickett	99.35
	Polk	116.72
	Putnam	131.93
	Rhea	122.34
	Roane	149.44
	Robertson	149.98
	Rutherford	208.89
	Scott	75.80
	Sequatchie	109.65
	Sevier	173.51
	Shelby	148.62
	Smith	97.93
	Stewart	75.20
	Sullivan	200.49
	Sumner	150.75
	Tipton	93.37
	Trousdale	97.39
	Unicoi	202.76
	Union	116.12

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Van Buren	95.07
	Warren	98.08
	Washington	223.37
	Wayne	67.17
	Weakley	102.62
	White	108.29
	Williamson	172.00
	Wilson	139.37
Texas	Anderson	76.82
	Andrews	21.32
	Angelina	98.71
	Aransas	45.62
	Archer	40.25
	Armstrong	25.17
	Atascosa	61.84
	Austin	105.81
	Bailey	23.08
	Bandera	68.56
	Bastrop	111.44
	Baylor	27.96
	Bee	55.45
	Bell	88.91
	Bexar	160.88
	Blanco	80.78
	Borden	23.92
	Bosque	67.26
	Bowie	81.35
	Brazoria	126.80
	Brazos	154.11
	Brewster	18.45
	Briscoe	24.19
	Brooks	42.04
	Brown	65.31
	Burleson	92.83
	Burnet	80.29
	Caldwell	103.51
	Calhoun	58.08
	Callahan	46.92
	Cameron	96.44
	Camp	89.23
	Carson	36.81
	Cass	63.52
	Castro	37.38
	Chambers	64.12
	Cherokee	84.16
	Childress	25.06
	Clay	52.12
	Cochran	25.08
	Coke	26.06
	Coleman	44.51
	Collin	269.43
	Collingsworth	27.47
	Colorado	81.51
	Comal	92.51
	Comanche	71.49
	Concho	39.96
	Cooke	89.58
	Coryell	70.59
	Cottle	30.07
	Crane	22.97
	Crockett	22.00
	Crosby	26.28
	Culberson	19.94
	Dallam	30.72
	Dallas	219.34
	Dawson	28.17
	Deaf Smith	30.56
	Delta	53.31
	Denton	258.70
	DeWitt	83.22
	Dickens	28.85
	Dimmit	38.20
	Donley	23.43
	Duval	45.97
	Eastland	53.20
	Ector	31.37
	Edwards	31.69
	El Paso	108.76
	Ellis	86.98
	Erath	85.76

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Falls	68.07
	Fannin	77.83
	Fayette	109.22
	Fisher	30.64
	Floyd	27.25
	Foard	30.23
	Fort Bend	84.06
	Franklin	83.98
	Freestone	69.48
	Frio	50.06
	Gaines	31.29
	Galveston	143.54
	Garza	27.22
	Gillespie	82.32
	Glasscock	24.89
	Goliad	72.00
	Gonzales	86.14
	Gray	30.99
	Grayson	183.39
	Gregg	153.02
	Grimes	104.21
	Guadalupe	105.46
	Hale	35.24
	Hall	24.89
	Hamilton	67.99
	Hansford	36.35
	Hardeman	28.28
	Hardin	84.71
	Harris	233.91
	Harrison	71.19
	Hartley	33.62
	Haskell	28.50
	Hays	264.74
	Hemphill	30.18
	Henderson	86.36
	Hidalgo	117.00
	Hill	68.51
	Hockley	27.31
	Hood	92.86
	Hopkins	79.05
	Houston	75.60
	Howard	25.06
	Hudspeth	24.46
	Hunt	83.81
	Hutchinson	26.22
	Irion	26.95
	Jack	63.20
	Jackson	78.83
	Jasper	86.87
	Jeff Davis	18.61
	Jefferson	63.79
	Jim Hogg	47.05
	Jim Wells	56.05
	Johnson	107.03
	Jones	30.91
	Karnes	66.26
	Kaufman	81.54
	Kendall	83.87
	Kenedy	19.96
	Kent	23.22
	Kerr	67.64
	Kimble	53.96
	King	18.77
	Kinney	33.62
	Kleberg	35.76
	Knox	30.18
	La Salle	42.91
	Lamar	67.91
	Lamb	33.75
	Lampasas	76.61
	Lavaca	95.11
	Lee	99.58
	Leon	82.27
	Liberty	81.48
	Limestone	49.90
	Lipscomb	30.45
	Live Oak	58.48
	Llano	70.97
	Loving	5.17
	Lubbock	46.11
	Lynn	27.28
	Madison	81.16
	Marion	54.26
	Martin	24.11
	Mason	62.79
	Matagorda	64.93
	Maverick	38.06
	McCulloch	53.39
	McLennan	97.74
	McMullen	49.19
	Medina	72.44
	Menard	40.15
	Midland	43.59
	Milam	85.68
	Mills	67.97
	Mitchell	27.01
	Montague	74.01
	Montgomery	309.19
	Moore	30.72
	Morris	61.84
	Motley	22.94
	Nacogdoches	78.42
	Navarro	63.63
	Newton	60.16
	Nolan	29.85
	Nueces	82.68
	Ochiltree	33.37
	Oldham	22.08
	Orange	125.12
	Palo Pinto	66.10
	Panola	72.33
	Parker	116.37
	Parmer	30.47
	Pecos	18.75
	Polk	81.56
	Potter	27.52
	Presidio	21.21
	Rains	94.24
	Randall	42.85
	Reagan	22.70
	Real	52.04
	Red River	52.20
	Reeves	14.25
	Refugio	33.86
	Roberts	20.61
	Robertson	78.26
	Rockwall	149.96
	Runnels	37.46
	Rusk	69.37
	Sabine	61.11
	San Augustine	76.39
	San Jacinto	111.06
	San Patricio	71.79
	San Saba	66.34
	Schleicher	31.99
	Scurry	28.33
	Shackelford	34.94
	Shelby	95.00
	Sherman	38.76
	Smith	142.16
	Somervell	84.87
	Starr	49.68
	Stephens	47.38
	Sterling	18.37
	Stonewall	24.76
	Sutton	34.40
	Swisher	28.33
	Tarrant	165.35
	Taylor	55.61
	Terrell	20.34
	Terry	27.60
	Throckmorton	38.14
	Titus	68.26
	Tom Green	42.58
	Travis	169.47
	Trinity	71.62
	Tyler	92.43
	Upshur	93.27
	Upton	21.89
	Uvalde	35.19
Utah	Beaver	26.42
	Box Elder	18.20
	Cache	57.37
	Carbon	14.70
	Daggett	32.97
	Davis	110.70
	Duchesne	11.59
	Emery	24.94
	Garfield	37.12
	Grand	9.78
	Iron	23.21
	Juab	15.75
	Kane	21.53
	Millard	24.25
	Morgan	26.12
	Piute	24.70
	Rich	10.36
	Salt Lake	114.93
	San Juan	4.36
	Sanpete	33.48
	Sevier	50.83
	Summit	38.76
	Tooele	16.32
	Uintah	7.48
	Utah	103.68
	Wasatch	65.97
	Washington	44.36
	Wayne	53.88
	Weber	110.63
Vermont	Addison	93.40
	Bennington	133.48
	Caledonia	89.37
	Chittenden	178.88
	Essex	54.78
	Franklin	87.35
	Grand Isle	120.54
	Lamoille	97.63
	Orange	103.09
	Orleans	75.84
	Rutland	77.33
	Washington	119.95
	Windham	140.34
	Windsor	108.25
Virginia	Accomack	120.54
	Albemarle	279.38
	Alleghany	119.05
	Amelia	87.38
	Amherst	131.44
	Appomattox	87.38
	Arlington	8,416.52
	Augusta	197.68
	Bath	103.85
	Bedford	124.24
	Bland	97.33
	Botetourt	118.57
	Brunswick	71.00
	Buchanan	68.29
	Buckingham	105.38

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Campbell	87.16
	Caroline	104.39
	Carroll	90.92
	Charles City	95.26
	Charlotte	74.03
	Chesapeake City	165.17
	Chesterfield	260.29
	Clarke	199.00
	Craig	84.45
	Culpeper	162.31
	Cumberland	107.49
	Dickenson	79.65
	Dinwiddie	86.65
	Essex	90.21
	Fairfax	474.66
	Fauquier	207.84
	Floyd	107.38
	Fluvanna	121.87
	Franklin	101.73
	Frederick	204.00
	Giles	86.79
	Gloucester	133.22
	Goochland	153.36
	Grayson	117.35
	Greene	184.46
	Greensville	76.60
	Halifax	74.87
	Hanover	142.21
	Henrico	171.32
	Henry	83.63
	Highland	90.32
	Isle of Wight	104.90
	James City	285.63
	King and Queen	95.38
	King George	144.35
	King William	114.27
	Lancaster	119.67
	Lee	74.73
	Loudoun	277.24
	Louisa	139.89
	Lunenburg	75.24
	Madison	168.02
	Mathews	120.83
	Mecklenburg	78.06
	Middlesex	112.04
	Montgomery	136.75
	Nelson	143.28
	New Kent	151.19
	Northampton	129.50
	Northumberland	84.90
	Nottoway	89.64
	Orange	177.85
	Page	184.01
	Patrick	78.38
	Pittsylvania	80.07
	Powhatan	149.66
	Prince Edward	80.44
	Prince George	107.52
	Prince William	302.03
	Pulaski	99.36
	Rappahannock	194.63
	Richmond	111.70
	Roanoke	162.20
	Rockbridge	138.90
	Rockingham	249.78
	Russell	81.62
	Scott	74.48
	Shenandoah	166.18
	Smyth	82.75
	Southampton	87.19
	Spotsylvania	159.21
	Stafford	370.10
	Suffolk	116.56
	Surry	95.43
	Sussex	78.38
	Tazewell	77.27
	Virginia Beach City.	272.49
	Warren	213.18
	Washington	142.29
	Westmoreland	105.40
	Wise	87.47
	Wythe	110.74
	York	341.60
Washington	Adams	26.38
	Asotin	24.44
	Benton	72.01
	Chelan	284.48
	Clallam	235.88
	Clark	165.26
	Columbia	30.07
	Cowlitz	165.42
	Douglas	21.80
	Ferry	9.57
	Franklin	84.88
	Garfield	29.06
	Grant	63.20
	Grays Harbor	44.24
	Island	202.81
	Jefferson	140.60
	King	651.13
	Kitsap	649.57
	Kittitas	76.24
	Klickitat	32.84
	Lewis	110.85
	Lincoln	22.57
	Mason	158.16
	Okanogan	22.30
	Pacific	63.99
	Pend Oreille	49.23
	Pierce	396.98
	San Juan	174.70
	Skagit	187.13
	Skamania	223.19
	Snohomish	357.11
	Spokane	68.87
	Stevens	28.98
	Thurston	219.46
	Wahkiakum	88.76
	Walla Walla	46.75
	Whatcom	310.23
	Whitman	32.25
	Yakima	50.89
West Virginia	Barbour	66.22
	Berkeley	151.70
	Boone	66.33
	Braxton	58.25
	Brooke	80.12
	Cabell	101.08
	Calhoun	51.70
	Clay	48.84
	Doddridge	60.38
	Fayette	82.61
	Gilmer	37.35
	Grant	74.36
	Greenbrier	73.91
	Hampshire	85.19
	Hancock	129.72
	Hardy	91.12
	Harrison	71.01
	Jackson	62.70
	Jefferson	166.56
	Kanawha	110.07
	Lewis	61.26
	Lincoln	52.27
	Logan	70.16
	Marion	84.06
	Marshall	73.37
	Mason	68.91
	McDowell	175.72
	Mercer	71.33
	Mineral	79.07
	Mingo	31.65
	Monongalia	128.47
	Monroe	75.49
	Morgan	148.44
	Nicholas	74.16
	Ohio	102.78
	Pendleton	63.81
	Pleasants	65.45
	Pocahontas	53.18
	Preston	77.91
	Putnam	81.28
	Raleigh	105.19
	Randolph	68.77
	Ritchie	51.19
	Roane	54.73
	Summers	64.43
	Taylor	87.21
	Tucker	81.19
	Tyler	54.25
	Upshur	75.01
	Wayne	56.98
	Webster	65.20
	Wetzel	54.65
	Wirt	51.27
	Wood	94.52
	Wyoming	94.92
Wisconsin	Adams	125.67
	Ashland	62.54
	Barron	95.71
	Bayfield	61.34
	Brown	237.81
	Buffalo	110.30
	Burnett	76.23
	Calumet	220.43
	Chippewa	99.63
	Clark	113.60
	Columbia	163.15
	Crawford	89.02
	Dane	230.65
	Dodge	163.60
	Door	133.17
	Douglas	54.90
	Dunn	100.81
	Eau Claire	127.85
	Florence	70.74
	Fond du Lac	203.66
	Forest	67.92
	Grant	132.05
	Green	151.93
	Green Lake	160.13
	Iowa	136.17
	Iron	95.21
	Jackson	106.38
	Jefferson	172.28
	Juneau	103.69
	Kenosha	212.06
	Kewaunee	157.33
	La Crosse	139.61
	Lafayette	167.32
	Langlade	91.60
	Lincoln	90.73
	Manitowoc	191.04
	Marathon	133.00
	Marinette	108.54
	Marquette	116.91
	Menominee	48.60
	Milwaukee	249.94
	Monroe	111.05
	Oconto	116.63
	Oneida	113.80
	Outagamie	201.76
	Ozaukee	183.48
	Pepin	108.45
	Pierce	129.34
	Polk	99.02
	Portage	114.78
	Price	68.84
	Racine	215.05
	Richland	93.95
	Rock	184.46
	Rusk	69.57
	Sauk	117.77
	Sawyer	72.59
	Shawano	130.51
	Sheboygan	184.60
	St. Croix	131.24
	Taylor	82.16
	Trempealeau	110.80

APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2024—Continued

State	County	Fee/acre/yr
	Vernon	108.73
	Vilas	165.53
	Walworth	194.09
	Washburn	87.57
	Washington	197.45
	Waukesha	154.17
	Waupaca	126.42
	Waushara	118.45
	Winnebago	195.15
	Wood	92.69
Wyoming	Albany	11.20
	Big Horn	24.34
	Campbell	8.67
	Carbon	8.42
	Converse	8.10
	Crook	14.99
	Fremont	19.51
	Goshen	13.20
	Hot Springs	9.51
	Johnson	9.01
	Laramie	12.99
	Lincoln	28.00
	Natrona	6.95
	Niobrara	9.60
	Park	22.88
	Platte	13.45
	Sheridan	18.75
	Sublette	25.29
	Sweetwater	4.53
	Teton	62.02
	Uinta	16.42
	Washakie	17.90
	Weston	10.25

[FR Doc. 2024–01547 Filed 1–26–24; 8:45 am]

BILLING CODE 6717–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 1230 and 2554

RIN 3045–AA87

Annual Civil Monetary Penalties Inflation Adjustment

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: The Corporation for National and Community Service, which operates as AmeriCorps, is updating its regulations to reflect required annual inflation-related increases to the civil monetary penalties under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Act) and Office of Management and Budget (OMB) guidance.

DATES: This rule is effective January 29, 2024.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Office of General Counsel, at *eappel@americorps.gov* or 202–937–6065.

SUPPLEMENTARY INFORMATION:

I. Background

AmeriCorps is a Federal agency that engages millions of Americans in service. AmeriCorps members and AmeriCorps Seniors volunteers serve directly with nonprofit organizations to tackle our nation's most pressing challenges. For more information, visit *americorps.gov.*

AmeriCorps has two civil monetary penalties in its regulations. A civil monetary penalty under the Act is a penalty, fine, or other sanction that: (1) is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law; and (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts. (*See* 28 U.S.C. 2461 note.) A civil monetary penalty does not include a penalty levied for violation of a criminal statute, or fees for services, licenses, permits, or other regulatory review.

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (sec. 701 of Pub. L. 114–74) (the ''Act'') requires agencies to adjust their civil monetary penalties for inflation annually. This rule updates AmeriCorps' two civil penalties for inflation.

II. Method of Calculation

The inflation adjustment for each applicable civil monetary penalty is determined using the percent increase in the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October of the year in which the amount of each civil money penalty was most recently established or modified. *See* December 19, 2023, OMB Memo for the Heads of Executive Departments and Agencies, M–24–07, *Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.* The cost-of-living adjustment multiplier for 2024, based on the CPI–U for the month of October 2023, not seasonally adjusted, is 1.03241.

The agency identified two civil penalties in its regulations: (1) the penalty associated with Restrictions on Lobbying (45 CFR 1230.400) and (2) the penalty associated with the Program Fraud Civil Remedies Act (45 CFR 2554.1):

- The civil monetary penalties related to Restrictions on Lobbying (45 CFR 1230.400) range from $23,728 to $237,267. Using the 2024 multiplier, the new range of possible civil monetary penalties is from $24,497 to $244,957.
- The Program Fraud Civil Remedies Act of 1986 (45 CFR 2554.1) civil monetary penalty has an upper limit of $13,508. Using the 2024 multiplier, the new upper limit of the civil monetary penalty is $13,946.

III. Summary of Final Rule

This final rule adjusts the civil monetary penalty amounts related to Restrictions on Lobbying (45 CFR 1230.400) and the Program Fraud Civil Remedies Act of 1986 (45 CFR 2554.1). The range of civil monetary penalties related to Restrictions on Lobbying increase from ''$23,728 to $237,267'' to ''$24,497 to $244,957.'' The civil monetary penalties for the Program Fraud Civil Remedies Act of 1986 increase from ''up to $13,508'' to ''up to $13,946.''

IV. Regulatory Procedures

A. Determination of Good Cause for Publication Without Notice and Comment and With an Immediate Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553) provides that, when an agency for good cause finds that notice and public comment procedures are impracticable, unnecessary, or contrary to the public interest, then the agency may issue a rule without providing notice and an opportunity for prior public comment. The agency finds that there is good cause to except this rule from the public notice and comment provisions of the APA in this case. Because the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires the agency to update its regulations based on a prescribed formula, the agency has no discretion in the nature or amount of the change to the civil monetary penalties to reflect any views or suggestions provided by commenters. Accordingly, it would serve no purpose to provide an opportunity for public comment on this rule prior to promulgation. Thus, providing for notice and public comment is impracticable and unnecessary. Additionally, it would not be possible to meet the deadlines imposed by the Act if we were to first publish a proposed rule, allow the public sufficient time to submit comments, analyze the comments, and publish a final rule. Therefore, notice and comment for these proscribed updates is impracticable and unnecessary.

Furthermore, the agency finds under section 553(d)(3) of the APA that good cause exists to make this final rule effective immediately upon publication in the **Federal Register**. In the Act,

Congress expressly required Federal agencies to publish annual inflation adjustments to civil penalties in the **Federal Register** by January 15 of each year, notwithstanding section 553 of the APA. Under the statutory framework and OMB guidance, the new penalty levels take effect immediately upon the effective date of the adjustment. The statutory deadline does not allow time to delay this rule's effective date beyond publication. Moreover, a delayed effective date would delay application of the new penalty levels, contrary to Congress's intent.

Accordingly, we are issuing the annual adjustments as a final rule without prior notice or an opportunity for comment and with an effective date immediately upon publication in the **Federal Register**.

B. Review Under Procedural Statutes and Executive Orders

The agency has determined that making technical changes to the amount of civil monetary penalties in its regulations does not trigger any requirements under procedural statutes and Executive orders that govern rulemaking procedures.

List of Subjects

45 CFR Part 1230

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

45 CFR Part 2554

Claims, Fraud, Organization and functions (Government agencies), Penalties.

For the reasons discussed in the preamble, under the authority of 42 U.S.C. 12651c(c), the Corporation for National and Community Service amends chapters XII and XXV, title 45 of the Code of Federal Regulations as follows:

PART 1230—NEW RESTRICTIONS ON LOBBYING

■ 1. The authority citation for part 1230 continues to read as follows:

Authority: Section 319, Pub. L. 101–121 (31 U.S.C. 1352); Pub. L. 93–113; 42 U.S.C. 4951, *et seq.;* 42 U.S.C. 5060.

§ 1230.400 [Amended]

■ 2. Amend § 1230.400 by removing ''$23,728'' and ''$237,267'' wherever they appear and adding in their places ''24,497'' and ''$244,957'', respectively.

Appendix A to Part 1230 [Amended]

■ 3. Amend appendix A to part 1230 by removing ''$23,728'' and ''$237,267'' wherever they appear and adding in their places ''$24,497'' and ''$244,957'', respectively.

PART 2554—PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

■ 4. The authority citation for part 2554 continues to read as follows:

Authority: Pub. L. 99–509, Secs. 6101–6104, 100 Stat. 1874 (31 U.S.C. 3801–3812); 42 U.S.C. 12651c–12651d.

§ 2554.1 [Amended]

■ 5. Amend § 2554.1 in paragraph (b) by removing ''$13,508'' and adding in its place ''$13,946''.

Fernando Laguarda,

General Counsel.

[FR Doc. 2024–01554 Filed 1–26–24; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220919–0193; RTID 0648–XD658]

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

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the General category fishery for Atlantic bluefin tuna (BFT) for the remainder of the January through March time period. The General category may only retain, possess, or land large medium and giant (*i.e.,* measuring 73 inches (185 centimeters (cm)) curved fork length or greater) when open. This action applies to Atlantic Tunas General category (commercial) permitted vessels and highly migratory species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT. On June 1, 2024, the fishery will reopen automatically.

DATES: Effective 11:30 p.m., local time, January 26, 2024, through March 31, 2024.

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

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

As described in § 635.27(a), the current baseline U.S. BFT quota is 1,316.14 metric tons (mt) (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area per § 635.27(a)(3)). The current baseline quota for the General category is 710.7 mt. The General category may only retain, possess, or land large medium and giant (*i.e.,* measuring 73 inches (185 cm) curved fork length or greater) when open as specified at § 635.27(a)(1). The General category baseline quota is suballocated to different time periods. Relevant to this action, the baseline subquota for the January through March time period is 37.7 mt. As a result of a prior adjustment, the adjusted subquota for the January through March time period is 58.2 mt (89 FR 3361, January 18, 2024).

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

Closure of the January Through March 2024 General Category Fishery

To date, reported landings for the General category January through March time period total 52.5 mt. Based on

these landings, NMFS has determined that the adjusted January through March time period subquota of 58.2 mt is projected to be reached and exceeded shortly. Therefore, retaining, possessing, or landing large medium or giant (*i.e.,* measuring 73 inches (185 cm) curved fork length or greater) BFT by persons aboard vessels permitted in the Atlantic Tunas General category and HMS Charter/Headboat permitted vessels (while fishing commercially) must cease at 11:30 p.m. local time on January 26, 2024. This action applies to Atlantic Tunas General category (commercial) permitted vessels and HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT and is taken consistent with the regulations at § 635.28(a)(1). The General category will automatically reopen June 1, 2024, for the June through August time period.

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

Monitoring and Reporting

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

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

Classification

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

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity to provide comment on this action, as notice and comment would be impracticable and contrary to the public interest for the following reasons. Specifically, the regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Providing for prior notice and an opportunity to comment is impracticable and contrary to the public interest as this fishery is currently underway and, based on landings information, the available time period subquota is projected to be reached shortly. Delaying this action could result in BFT landings exceeding the adjusted January through March time period subquota and reduce the opportunity for U.S. fishing vessels to harvest quota later in the year. Taking this action does not raise conservation or management concerns, and would support effective management of the BFT fishery. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria.

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

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

Dated: January 24, 2024.

Everett Wayne Baxter,

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

[FR Doc. 2024–01724 Filed 1–25–24; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 19
Monday, January 29, 2024

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

FEDERAL RESERVE SYSTEM

12 CFR Part 235

[Regulation II; Docket No. R–1818]

RIN 7100–AG67

Debit Card Interchange Fees and Routing; Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On November 14, 2023, the Board of Governors of the Federal Reserve System (Board) published in the **Federal Register** a proposal that would update all three components of Regulation II's interchange fee cap based on the latest data reported to the Board by large debit card issuers, update the interchange fee cap every other year going forward by directly linking the interchange fee cap to data from the Board's biennial survey of large debit card issuers, and implement a set of technical revisions to the regulation. The proposal provided for a comment period ending on February 12, 2024. The Board is extending the comment period for 90 days, until May 12, 2024. Further, additional data concerning the proposed new methodology for determining the base component of the interchange fee cap are being made available on the Board's website.

DATES: The comment period for the proposed rulemaking published on November 14, 2023 (88 FR 78100) is extended. Comments must be received by May 12, 2024.

ADDRESSES: You may submit comments by any of the methods identified in the proposal.

FOR FURTHER INFORMATION CONTACT: Benjamin Snodgrass, Senior Counsel (202–263–4877) or Cody Gaffney, Senior Attorney (202–452–2674), Legal Division; or Krzysztof Wozniak, Section Chief (202–452–3878) or Elena Falcettoni, Senior Economist (202–452–2528), Division of Reserve Bank Operations and Payment Systems. For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States or (202) 263–4869.

SUPPLEMENTARY INFORMATION: On November 14, 2023, the Board published in the **Federal Register** a proposal that would update all three components of Regulation II's interchange fee cap based on the latest data reported to the Board by large debit card issuers, update the interchange fee cap every other year going forward by directly linking the interchange fee cap to data from the Board's biennial survey of large debit card issuers, and implement a set of technical revisions to the regulation.[1]

The proposal provided for a comment period ending on February 12, 2024. Since the publication of the proposal, multiple commenters have requested that the Board extend the comment period, while one commenter has expressed opposition to any extension. An extension of the comment period will provide additional opportunity for interested parties to consider the proposal and prepare comments. Therefore, the Board is extending the end of the comment period for the proposal from February 12, 2024, to May 12, 2024.

In addition, to assist the public in commenting on the proposed new methodology for determining the base component of the interchange fee cap, additional data concerning this aspect of the proposal are being made available on the Board's website.[2]

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, January 22, 2024.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2024–01612 Filed 1–26–24; 8:45 am]

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[1] 88 FR 78100 (Nov. 14, 2023).

[2] The additional data are being made available on the Reports and Data Collections page of the Regulation II section of the Board's website. *See https://www.federalreserve.gov/paymentsystems/regii-data-collections.htm.*

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1263

[Docket No. CPSC–2024–0004]

Petition Requesting Rulemaking To Amend the Requirement for a ''Keep Out of Reach'' Icon on Button Cell or Coin Battery Packaging

AGENCY: Consumer Product Safety Commission.

ACTION: Request for comment on petition for rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) received a petition requesting an amendment to its rule on button cell or coin battery packaging to allow for a smaller ''Keep out of Reach'' icon on the principal display panel for packages of button cell or coin batteries (Petition). The Commission invites written comments concerning this Petition.

DATES: Submit comments by March 29, 2024.

ADDRESSES: Submit comments, identified by Docket No. CPSC–2024–0004, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by email, except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

Mail/Hand Delivery/Courier/Confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to:

https://www.regulations.gov. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/ confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2024–0004, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Alberta E. Mills, Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: 301–504–7479; *cpsc-os@cpsc.gov.*

SUPPLEMENTARY INFORMATION: On September 21, 2023, as part of its implementation of Reese's Law (Pub. L. 117–171, 15 U.S.C. 2056e), the Commission published a Safety Standard for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries, codified at 16 CFR part 1263. 88 FR 65296 (battery package labeling); 88 FR 65274 (consumer products).[1] [2] As proposed in the notice of proposed rulemaking (88 FR 8692 (Feb. 9, 2023)), the final rule for battery package labeling requires that packages of button cell or coin batteries contain on their principal display panel a warning label with text required to meet Reese's Law, and a ''Keep out of Reach'' icon at least 8 mm in diameter. However, if space prohibits the full warning with the ''Keep out of Reach'' icon in accordance with the text formatting requirements, the packaging is alternatively required to use the ''Keep out of Reach'' icon on the principal display panel and the warning text must be placed on the secondary display panel. In this instance, the icon must be at least 20 mm (0.79 in.) in diameter for visibility. 16 CFR 1263.4(b)(2)).

On November 1, 2023, the Commission received a petition from Elliott Alexander (Petitioner), President of Micropower Battery Company. The Petition requests the Commission to modify the rule for battery package labeling to allow for a smaller ''Keep out of Reach'' icon when space prohibits the full warning on the principal display panel, suggesting a minimum icon size of 8 mm, and allowing a scaled icon depending on the size of the packaging up to a 20 mm icon. The Petition includes example images of existing battery packaging to demonstrate space limitations. The Petition alleges that existing packaging has been made child-resistant, but if a 20 mm icon is required on the front of the package, then manufacturers will collectively be required to spend millions of dollars on production of larger packages and different package configurations. The Petition also questions why an additional ''Keep out of Reach'' icon is necessary on the front packaging when batteries 16 mm and larger already include the same icon on each battery, which is visible through the packaging.

The Petition requests an amendment to the final rule to allow ''Keep out of Reach'' icons on the primary display panel to be between 8 to 20 mm, depending on the packaging, and alternatively to allow the words ''Keep Away from Children'' on the front of battery packaging. In a December 28, 2023, letter to Commission staff (Follow-Up Letter), the Petitioner further explains why he believes battery packaging cannot be reconfigured to allow space for a 20 mm icon on the principal display panel, and provides a proposed sliding scale for ''Keep out of Reach'' icon sizes from 7 to 40 mm.

The Petition and the Follow-Up Letter are available at: *http://www.regulations.gov,* under Docket No. CPSC–2024–0004, Supporting and Related Materials. Alternatively, interested parties may obtain a copy of the Petition and the Follow-Up Letter by writing or calling the Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: 301–504–7479; *cpsc-os@cpsc.gov.* The Commission seeks comment on all aspects of the Petition and the Follow-Up Letter, including:

- Whether the Petition presents any issues or evidence that could not have been presented to the Commission during the comment period on the notice of proposed rulemaking, prior to adoption of the final rule establishing the requirement for a 20 mm ''Keep out of Reach'' icon. *See* Comment Summaries A and B, 88 FR at 65300 (noting comments stating similar concerns to those identified in the Petition); and
- Whether, if a 20 mm ''Keep out of Reach'' icon in sticker format is used on the outside of battery packaging, including over a packaged battery, to meet the requirements of the current rule, the permanency of such a sticker should be tested in accordance with the permanency test in UL 4200A or another standard, and whether such a sticker could be a cost-effective way to meet the product safety requirement for small packages.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2024–01235 Filed 1–26–24; 8:45 am]

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[1] The requirements for battery package labeling were published separately from the requirements for consumer products that contain or use button cell or coin batteries because the Commission adopted battery compartment requirements for consumer products from ANSI/UL 4200A, *Standard for Safety for Products Incorporating Button Batteries or Coin Cell Batteries,* approved on August 30, 2023 (UL 4200A–2023), which does not address battery package labeling.

[2] On January 17, 2024, the Commission voted (3–1) to publish this notice.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WC Docket No. 17–84; Report No. 3209; FR ID 198691]

Petitions for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration.

SUMMARY: Petition for Reconsideration (Petitions) have been filed in the Commission's proceeding Aryeh B. Fishman, on behalf of Edison Electric Institute.

DATES: Oppositions to the Petitions must be filed on or before February 13, 2024. Replies to oppositions must be filed on or before February 8, 2024.

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

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Michael Ray of the Wireline Competition Bureau, Competition Policy Division, at (202) 418–0357 or *Michael.Ray@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3209, released January 22, 2024. The full text of the Petitions can be accessed online via the Commission's Electronic Comment Filing System at: *http://apps.fcc.gov/ecfs/.* The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Subject: Accelerating Wireline Broadband Deployment by Removing

Barriers to Infrastructure Investment (WC Docket No. 17–84).

Number of Petitions Filed: 1.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–01633 Filed 1–26–24; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 30

[ET Docket No. 21–286; FCC 23–114; FR ID 198341]

Modifying Emissions Limits for the 24.25–24.45 GHz and 24.75–25.25 GHz Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; solicitation of comment.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes to implement certain decisions regarding the 24.25–27.5 GHz band made in the World Radiocommunication Conference held by the International Telecommunication Union (ITU) in 2019 (WRC–19). Specifically, the Commission proposes to align part 30 of the Commission's rules for mobile operations with the Resolution 750 limits on unwanted emissions into the passive 23.6–24.0 GHz band that were adopted at WRC–19. These proposed rule changes would help to facilitate the protection of passive sensors used for weather forecasting and scientific research in the 23.6 GHz–24.0 GHz band, while continuing to promote flexible commercial use of the 24.25–24.45 GHz and 24.75–25.25 GHz bands (collectively, 24 GHz band). The Commission also seeks comment on alternatives to the proposals it makes, and on other related issues.

DATES: Comments are due on or before February 28, 2024; reply comments are due on or before March 14, 2024. Written comments on the Initial Regulatory Flexibility Analysis (IRFA) in this document must have a separate and distinct heading designating them as responses to the IRFA and must be submitted by the public on or before February 28, 2024.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998). You may submit comments, identified by ET Docket No. 21–186, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://www.fcc.gov/ecfs/.*
- *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,* 35 FCC Rcd 2788, 2788–89 (OS 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, computer diskettes, audio recordings), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Simon Banyai of the Wireless Telecommunications Bureau, Broadband Division, at 202–418–1443 or *Simon.Banyai@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*), in ET Docket No. 21–186, FCC 23–114; adopted on December 12, 2023 and released on December 22, 2023. The full text of this document is available at *https://docs.fcc.gov/public/attachments/FCC-23-114A1.pdf.*

Regulatory Flexibility Act: The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The Commission seeks comment on potential rule and policy changes contained in the *NPRM,* and accordingly, has prepared an IRFA. The IRFA for this *NPRM* in ET Docket No. 21–286 is set forth below in this document and written public comments are requested. Comments must be filed by the deadlines for comments on the *NPRM* indicated under the **DATES** section of this document and must have a separate and distinct heading designating them as responses to the IRFA. The Commission reminds commenters to file in the appropriate docket: ET Docket No. 21–286.

Ex Parte Rules: The proceeding 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.

Paperwork Reduction Act: This document does not contain proposed information collection requirements to the Paperwork Reduction Act of 1995, Public Law 104–13. Therefore, it does not contain any proposed 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).

Synopsis

I. Notice of Proposed Rulemaking in WT Docket No. 21–186

A. Background

1. The 23.6–24.0 GHz band is allocated to the Earth Exploration Satellite Service (EESS) (passive), Space Research Service (passive), and Radio Astronomy Service (RAS) on a primary basis. EESS utilizes passive sensors located on satellites to measure the power level of naturally occurring radio emissions from water vapor and cloud liquid water molecules in the atmosphere, critical measurements for climatology science and weather forecasting. The National Oceanic and Atmospheric Administration (NOAA) uses such passive sensors to measure moisture data and determine water vapor in its weather forecast models. Because these naturally occurring emissions in the 23.6–24.0 GHz band are very weak, the passive sensors measuring them are sensitive and vulnerable to interference. As these sensors receive all natural and man-made emissions in general, passive sensors are not able to differentiate these two sources of signals.

2. The Commission first authorized service in the 24.25–24.45 GHz and 25.05–25.25 GHz bands in 1997, when it transitioned the Digital Electronic Messaging Service (DEMS) to these bands from the 18 GHz band. In 2000, the Commission adopted competitive bidding and service rules for these bands and created a 24 GHz Service. This 24 GHz Service had a total of 176 Economic Areas (EA) or EA-like service areas. In 2004, the Commission held Auction 56, in which it made 880 24 GHz licenses available. Only seven of the 880 licenses were sold. As of 2017, there were 33 active DEMS licenses in these bands.

3. In 2017, the Commission authorized the 24 GHz band for Upper Microwave Flexible Use Services (UMFUS), and generally applied the same licensing and technical rules to UMFUS in the 24 GHz band that it applied to UMFUS in other upper microwave bands. The UMFUS rules allow licensees flexibility as to the services they will deploy and the architecture of their networks. Under these rules, licensees are able to deploy mobile services, but they also may implement fixed point-to-point and point-to-multipoint systems. Among other things, the UMFUS rules specify that emissions outside of a licensee's assigned frequency block must be limited to −13 dBm/MHz.[1] With respect to the passive systems operating in the 23.6–24 GHz band, the Commission noted that ongoing international studies included analyses to determine International Mobile Telecommunications (IMT) unwanted emissions limits necessary to protect passive sensors, and it acknowledged that the Commission's UMFUS rules might be revisited once these international studies had been completed.

4. WRC–19 allocated 24.25–25.25 GHz to mobile (except aeronautical) on a primary basis in Regions 1 and 2, globally identified the 24.25–27.5 GHz band for IMT, and established limits on unwanted emissions applicable to IMT in the 24.25–27.5 GHz band to protect EESS passive systems in the 23.6–24.0 GHz band from harmful interference. To protect EESS passive systems, WRC–19 modified a footnote to the International Table of Allocations to add a new limit contained in Resolution 750 (Rev. WRC–19). Resolution 750 specifies unwanted emissions limits in terms of Total Radiated Power (TRP) as the amount of power that may be radiated into any 200 megahertz block of the 23.6–24.0 GHz passive band by IMT base stations and IMT mobile stations operating in the 24.25–27.5 GHz band. Resolution 750 sets emissions limits for current IMT devices as well as more stringent emissions limits for IMT devices that will be brought into use in the 24.25–27.5 GHz band on or after September 1, 2027.[2] These two sets of unwanted emissions limits are shown in Table 1.

Table 1: WRC-19 Resolution 750 Unwanted emissions permitted within any 200 megahertz in the 23.6-24 GHz passive band

Type of Station	Current TRP Limits	TRP Limits After Sept. 1, 2027
IMT Base Stations	–33 dBW	–39 dBW
IMT Mobile Stations	–29 dBW	–35 dBW

5. On April 26, 2021, the Office of Engineering and Technology and the Wireless Telecommunications Bureau issued a *Public Notice* that sought to develop a record on whether and how the Commission could implement the emissions limits contained in Resolution 750 for the active services in the 24 GHz band.[3] The *Public Notice* specifically sought comment on the possibility of amending part 30 of the Commission's rules to conform to the unwanted emissions limits into the passive 23.6–24.0 GHz band that were adopted at WRC–19 and/or to add footnotes to the United States Table of Frequency Allocations at part 2 of the Commission's rules.

[1] 47 CFR 30.203(a). In the bands immediately outside and adjacent to the licensee's frequency block, having a bandwidth equal to 10 percent of the channel bandwidth, the conductive power or the total radiated power of any emission shall be −5 dBm/MHz or lower. As the 23.6–24 GHz passive band is 250 megahertz away from the UMFUS bands, the −5 dBm/MHz does not apply within that passive band for UMFUS licensees.

[2] For IMT base stations and mobile stations brought into use prior to September 1, 2027, the more relaxed unwanted emissions limits will continue to apply. ITU Radio Regulations (2020), Resolution 750 (Rev.WRC–19), Table 1, Vol. 3 at 519, 522.

[3] *See Office of Engineering & Technology and the Wireless Telecommunications Bureau Seek Comment on Emission Limits for the 24.25–27.5 GHz Band, Public Notice,* 36 FCC Rcd 7561 (OET WTB 2021) (*Public Notice*).

6. The *Public Notice* sought comment regarding what level of emissions could be expected within the 23.6–24.0 GHz band from UMFUS transmitters, and whether and to what extent new 5G deployments at the current UMFUS emissions limits could cause harmful interference to passive systems operating in the 23.6–24.0 GHz. It also asked how equipment intended for use under the UMFUS rules in the 24 GHz band could be reconfigured to conform to both the current and future Resolution 750 unwanted emissions limits. In addition, the *Public Notice* asked whether licensees could meet the Resolution 750 deadlines, as well as whether the Commission could help facilitate a more accelerated timeframe. It also inquired whether such emissions limits should be measured as conducted power or total radiated power.

7. The *Public Notice* also sought comment on the scope of operations that would be covered if the Commission were to adopt the emissions limits in Resolution 750 for the 24.25–27.5 GHz band. In particular, it sought comment on whether the Resolution 750 unwanted emissions limits should apply to (1) IMT mobile systems only, (2) all mobile systems, or (3) all systems, including fixed point-to-point and point-to-multipoint systems. As noted above, the unwanted emissions limits of Resolution 750 apply only to IMT base stations and mobile stations. IMT standards are not specific technologies, but rather specifications and requirements for high-speed mobile broadband service. The *Public Notice* noted that Resolution 750 specified TRP as the only means of measuring whether equipment met the required emissions limits. It asked if there are any difficulties in performing over the air TRP measurements at such low signal levels in the 24.25–24.45 GHz and 24.75–25.25 GHz bands and whether a conductive power methodology should be permitted as an alternative means of demonstrating compliance with the emissions limits for equipment certification.

8. Comments on the *Public Notice* were due June 26, 2021, and reply comments were due July 26, 2021. The Office of Engineering and Technology and Wireless Telecommunications Bureau received ten comments, and four reply comments.

II. Discussion

A. Revision of Commission Rules To Adopt Resolution 750 Unwanted Emissions Limits

9. The Commission proposes to adopt the Resolution 750 unwanted emissions limits adopt WRC–19, to apply them to all mobile systems in the 24 GHz band, and to incorporate those limits into its part 30 technical rules as well as codifying them in a new U.S. footnote to the Table of Frequency Allocations (Allocation Table). Under this proposal, as of the effective date of the rules, mobile operations in the 24 GHz band would be required to comply with the current TRP limits adopted at WRC–19. The Commission seeks comment on this proposal and on alternative limits, including the effect of any changes to existing limits on smaller entities. The Commission also seeks comment on the schedule for adoption of any revised limits, including adjustments that should be made for smaller entities to come into compliance. Appropriate out-of-band emissions limits in the 24.25–27.5 GHz band are important to protect passive sensing operations in the 23.6–24.0 GHz band, which are central to weather forecasting and scientific research.

10. Based on the record before the Commission, it appears that the proposed Resolution 750 unwanted emission limits likely strike the appropriate balance between protecting passive sensing and facilitating use of the 24 GHz band.[4] NTIA, AT&T, CTIA, Nokia, T-Mobile, Ericsson, Marcus & Jornet, and AGU/AMS/NWA support adopting these limits. They argue that adopting these limits would provide important protection to extremely sensitive passive satellite operations, would allow 5G to continue to develop and deploy in the U.S., would be consistent with U.S. policy as a signatory to the treaty of the text of the Radio Regulations, and would promote international harmonization. Moreover, NTIA asserts that adopting the rules would help to meet the Administration's goals for climate monitoring and climatological science, would enable the U.S. to maintain its position as a world leader in telecommunications, and would enable manufacturers to produce equipment marketable across the globe. The Commission asks parties that support adopting the Resolution 750 limits to quantify the benefits of these limits.

11. The Commission notes that, while equipment manufacturers support adopting the Resolution 750 limits, Qualcomm, in its comments to the *Public Notice,* opposes adopting these limits because it alleges that they will require equipment that uses the 24 GHz UMFUS band to operate with lower in-band power levels. The Commission seeks comment on Qualcomm's concerns. In particular, the Commission asks parties that argue that adoption of the Resolution 750 limits would increase network deployment costs to quantify these additional costs and to specify the impact on existing and future service. Commenters should separately discuss deployment costs associated with the current limits and limits recommended for implementation after Sept. 1, 2027.

12. The Commission proposes to adopt the limits set forth in Resolution 750. In doing so, the Commission also seeks comment on whether some changes to these limits may be appropriate to help strike the best balance and better serve the public interest in the United States while protecting EESS operations in the 23.6–24.0 GHz band. For example, CORF asserts that the WRC limits are not stringent enough to protect EESS operations, and it requests that the Commission should either adopt the European OOBE standard it offered going into WRC–19 (−42 dBW in 200 MHz) [5] or the World Meteorological Organization (WMO) proposal (−54 dBW in 200 MHz).[6] CORF also points

[4] The Commission notes that, in 2017, the Commission provided notice that ongoing international studies included analyses to determine IMT–2020 OOBE limits necessary to protect passive sensors onboard weather satellites in the 23.6–24 GHz band, and that once the studies were completed, new rules might be necessary for protection of these operations. *In the Matter of Use of Spectrum Bands Above 24 GHz for Mobile Radio Servs.,* 32 FCC Rcd. 10988, 10997, para. 22 (2017).

[5] The Commission notes that after WRC–19, the European Union modified its stricter limits stating that ''[t]he continued application of the current more stringent EU-harmonised protection limits in the single market would provide greater protection of the EESS (passive) across the territory of the Union. However the application of protection limits in the Union that differed from those applied in the rest of the world, in particular by being more stringent may affect the degree of equipment availability and choice, which in turn may have a negative impact on equipment costs and the scale of investments in high-capacity (5G) networks . . .'' and concluded that ''Decision (EU) 2019/784 should be amended in order to preserve the balance of Union policies on 5G deployment and the monitoring of the Earth's atmosphere and surface and to foster the Union's role as a leader in the global 5G ecosystem of equipment and services.''). *See* EU Commission implementing Decision (EU) 2020/590 (24 April 2020) amending Decision (EU) 2019/784, at *https://docdb.cept.org/download/167.*

[6] IEEE neither supports nor rejects the WRC–19 limits but propose the alternative of supporting whichever limit allows for the least power to be emitted into the 23.6–24.0 GHz band. IEEE Comments at 4. IEEE also argues it is necessary to understand the filter roll-off characteristics of the equipment being used in order to calculate the amount of power that would be transmitted by that equipment into a 200 MHz block of the 23.6–24.0 GHz band, and therefore requests that the Commission delay making a decision on limits until the Commission has completed such an evaluation. *Id.* Assuming the Commission adopts rules that will limit the amount of unwanted emissions into the EESS band, its licensees will be required to comply with those limits by any means necessary. Although

out that although the primary focus of the *Public Notice* was protecting EESS, RAS also has a co-primary allocation at 23.6–24.0 GHz.

13. AT&T, T-Mobile, and CTIA request that the Commissionrejectthe more stringent limits suggested by CORF. AT&T argues that the stricter limits mayhinder the roll-out and growth of 5G services. T-Mobile notes that theResolution 750 limitsfrom the ITUwere carefully considered andare a product of extensive collaboration, and that CORF has not demonstrated why these limits are inadequate. CTIA argues thatadopting CORF's proposal would conflict withthe notice that it asserts was given to bidders in the 24 GHz auctionthat theCommissionwould notadopt limits that are significantly stricter than whatwas agreed to at WRC–19. The Commission seeks comment on CORF's proposal in the record. Parties supporting changes to the Resolution 750 unwanted emission limits should provide additional technical justification and explain why any stricter changes are necessary to protect EESS operations in the United States. While CORF also raises issues concerning RAS, the Commission notes that Resolution 750 was limited to protection of EESS, and RAS is outside the scope of this proceeding. The Commission also notes that RAS observations that are protected under US74 historically have received a lower level of protection than EESS.[7]

14. The Commission proposes to make any changes to the limits on emissions into the 23.6–24.0 GHz band by amending its part 30 rules and adding a footnote to the U.S. Table of Allocations. Since the Commission's part 30 rules already contain a rule governing emissions limits, it appears to be appropriate to incorporate any changes the Commission makes in this proceeding into that rule. CORF, CTIA, and T-Mobile all support incorporating any changes to the Commission's emissions limits into part 30 of the Commission's rules. The Commission seeks comment on alternative approaches.

B. Services Subject to Resolution 750 Unwanted Emissions Limits

15. The Commission proposes to apply the Resolution 750 unwanted emissions limits to all mobile operations (as defined in parts 2 and 20 of the Commission's rules)[8] in the 24 GHz band, not just to IMT operations. While WRC–19 only applied the unwanted emissions limits of Resolution 750 to IMT base stations and mobile stations, the Commission's rules do not define IMT and do not require that equipment complying with a particular technical standard be used in a band licensed under the UMFUS rules. Accordingly, attempting to treat non-IMT mobile operations differently than IMT mobile operations could cause confusion and difficulties with enforcing the limits. The Commission also does not see a technical justification for applying different emissions limits to IMT and non-IMT mobile systems. NTIA believes that device and deployment density, along with pointing angles toward the satellite, are the predominant factors in causing interference to the passive satellite sensors, and these factors are not unique to IMT but common to all mobile systems. Additionally, the Commission notes that NTIA, CORF, and various wireless industry commenters support applying any revised emissions limits to all mobile operations, while no commenter supports applying the Resolution 750 emissions limits to only IMT mobile operations.[9] The Commission seeks comment on this proposal. The Commission also seeks comment on NTIA's request that the Commission apply the Resolution 750 unwanted emissions limits to fixed operations, including point-to-point and point-to-multipoint operations,[10] though the Commission acknowledges that WRC–19 did not study fixed deployments. NTIA argues the Commission should apply the two-phased WRC–19 emissions limit timetable described below to fixed deployments. It asserts that fixed services that cannot comply with the WRC–19 OOBE limits, or that cannot meet the phased approach, should be constructed to operate with no greater than 0 degree antenna up-tilt to protect satellite operations.[11] NTIA further submits that the applicability of OOBE limits to fixed deployments is an issue that could merit explicit study—perhaps jointly by the Commission and NTIA—to gain sufficient confidence to relax the rules for fixed services. CORF and IEEE also want all potential UMFUS operations, mobile and fixed, to be subject to enhanced OOBE standards.

16. The Commission seeks comment on whether it would be necessary to apply emissions limits stricter than −13 dBm/MHz to fixed operations in the 24 GHz band. Proponents of applying stricter limits as well as those arguing for maintaining the existing limits should provide specific technical data justifying their respective positions, as well as the costs and benefits of applying stricter limits or of keeping the existing limits.[12] The Commission notes that numerous point-to-point microwave links deployed by non-federal and federal operators in the 21.2–23.6 GHz band (which has propagation characteristics similar to the 24 GHz band and is immediately adjacent to the 23.6–24.0 GHz passive band) operate with the same unwanted emissions limits that apply under the UMFUS rules. The Commission seeks comment on whether these existing deployments have caused harmful interference to passive sensors in the 23.6–24.0 GHz band, and on the likelihood that the tighter beams of fixed point-to-point systems will be detected by passive instruments in space. The Commission also seeks comment on whether there are material differences between existing fixed point-to-point systems and fixed point-to-point and point-to-multipoint systems that may be deployed in the 24 GHz band in the future and how such

the Commission invites commenters to provide information on filter roll-off characteristics, the Commission sees no need to delay this proceeding pending such information.

[7] *Compare* United States Table of Allocations, 47 CFR 2.106(c)(74) (''In the bands . . . 23.6–24.0 . . . GHz, the radio astronomy service shall be protected from unwanted emissions only to the extent that such radiation exceeds the level which would be present if the offending station were operating in compliance with the technical standards or criteria applicable to the service in which it operates.'') *with id.* at (c)(246) (''No station shall be authorized to transmit in the following bands . . .'').

[8] *See* 47 CFR 2.1 (''Mobile Service. A radiocommunication service between mobile and land stations, or between mobile stations.''); *see also* 47 CFR 20.3 (''Mobile Service. A radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes: (a) Both one-way and two-way radio communications services; (b) A mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and (c) Any service for which a license is required in a personal communications service under part 24 of this chapter.'')

[9] Qualcomm opposes the WRC limits and asks the Commission to maintain the existing −13 dBm/MHz OOBE standard, but to the extent the Commission will adopt the WRC limits, it asks that they apply only to mobile deployments. Qualcomm Comments at 2.

[10] Point-to-multipoint operations include transportable user equipment, where the user equipment is not intended to be used while in motion, but the equipment could be moved when not in operation. *See* 47 CFR 30.2.

[11] NTIA further submits that the applicability of OOBE limits to fixed deployments is an issue that could merit explicit study—perhaps jointly by the Commission and NTIA—to gain sufficient confidence to relax the rules for fixed services. NTIA Comments at 12.

[12] The Commission notes the arguments that the scientific community is unable to determine whether data has been corrupted by low-level interference. *See* CORF Comments at 13–14.

systems might impact emissions into the 23.6–24.0 GHz band. Further, the Commission seeks comment on NTIA's alternative suggestions of limiting the elevation angles of fixed deployments.

17. Finally, the Commission seeks comment on Ericsson's and AT&T's proposal that indoor small-cell systems be exempt from the Resolution 750 limits. The Commission urges parties who support an exemption for indoor systems to include a technical justification for treating indoor small-cell systems differently. The Commission notes that indoor systems normally run at lower power and should have less difficulty meeting the Resolution 750 limits. Conversely, building attenuation would further reduce the likelihood of unwanted emissions in the 23.6–24 GHz passive band from indoor small cell transmitters.

C. Timetable for Application of WRC–19 Limits

18. The Commission proposes to apply the new Resolution 750 unwanted emissions limits on the timeframes adopted at WRC–19. Under this proposal, the first phase limits (-33 dBW for base stations, -29 dBW for mobile stations) would apply as of the effective date of the rules, and the second phase limits (-39 dBW for base stations, -35 dBW for mobile stations) would apply to all deployments after September 1, 2027. AT&T, CTIA, Ericsson, Nokia, and T-Mobile support adopting the WRC limits on the timeframes adopted by WRC–19. The Commission notes that no party has alleged that there will be a problem complying with the first phase limits or has asserted that existing deployments in the 24 GHz band would be constrained by such limits. AT&T, Ericsson, and Nokia state they will have equipment that meets the interim Phase 1 standard, and that they are working on compliance with the 2027 standards, which will depend on advances in chipsets and significant research and development.[13] CTIA asserts that licensees and manufacturers have relied on the WRC–19 decisions in developing equipment and planning deployment, and it notes that the 3rd Generation Partnership Project (3GPP) standards development organization is adopting these limits into its standards for equipment operating in the band based on the timeframes determined at WRC–19. The Commission seeks comment on this proposal.

19. One of the tools that the Commission uses to ensure compliance with its technical rules is its equipment authorization program for RF devices, which is codified in part 2 of its rules. In general, and for 24 GHz band devices used for mobile services, RF devices must comply with the Commission's technical and equipment authorization requirements before they can be imported into or marketed in the United States.[14] Because the unwanted emission limits for base stations and mobile stations will change after September 1, 2027 under the Commission's proposal, equipment certifications based on compliance with the first phase limits would expire on that date. Any equipment remaining in the supply chain—*i.e.* in warehouses or in transit—would then be illegal to sell or install under the Commission's rules. To minimize this issue, the Commission seeks comment on whether the Commission should prohibit the grant of new equipment certifications for, or the importation of, equipment not complying with the phase two unwanted emission limits at a date prior to September 1, 2027. For example, the Commission could cease granting new equipment certifications or permitting importation of equipment certified as complying with only the first phase limits after March 1, 2027—six months before the implementation of the second phase limits. Adopting such a rule could help prevent equipment that does not comply with the phase two unwanted emission limits from being deployed after September 1, 2027. The Commission would expect equipment manufacturers and distributors to manage their inventories to comply with the rules that the Commission adopts.

20. IEEE asks that the U.S. apply the stricter Phase 2 standards on an accelerated schedule for new deployments and in 2027 for all deployments, consistent with the European Union. The Commission seeks comment on the feasibility and appropriateness of accelerating the deadline for compliance with the Phase 2 standards. In that regard, the Commission requests that equipment manufacturers and 24 GHz licensees provide further information on timelines for mobile equipment availability and system deployment. As noted above, while equipment manufacturers are working on equipment that would comply with the Phase 2 standards, it is not clear that equipment meeting the Phase 2 standards would be widely available on an accelerated time frame. Furthermore, the Phase 2 standards anticipate ubiquitous deployment of mobile systems in the band, and it is not clear that widespread deployment of mobile systems will occur in the band before 2027. The Commission also notes that licensees in the band in the U.S. will not be required to demonstrate buildout before 2029.

21. NTIA requests that the Commission incentivize early adoption of the 2027 WRC limits, asserting that the WRC limits are based on estimates of gradual 5G deployment, which is at odds with the United States' national priority of rapid 5G deployment. Noting that rapid 5G deployment in a range of frequency bands covering high-band, mid-band, and low-band spectrum is a priority for many countries around the world, and that international 5G deployments are well underway, the Commission seeks comment on NTIA's request. What incentives would facilitate deployment of equipment that meets the Phase 2 limits? Are there steps the Commission can take to encourage the development and deployment of equipment that meets the Phase 2 standards?

22. NTIA urges, and AGU/AMS/NWA agrees, that base stations and user equipment modified or replaced after September 1, 2027, should comply with the post-2027 (*e.g.,* -39 dBW) OOBE levels. CTIA argues this requirement is overly broad and would effectively prevent licensees from making any changes to existing deployments without purchasing and installing entirely new equipment; furthermore, it asserts the WRC–19 decision makes clear that the more stringent limits apply to equipment brought into use after September 2027, and that equipment brought into use before that date will continue to be subject to the initial emissions limits. T-Mobile notes that equipment can be ''modified'' in a number of insignificant ways, and thus, the Commission should only treat base station modifications that affect the emissions characteristics as ''modifications.'' In contrast, AGU/

[13] Nokia states its equipment meets the current WRC limits and that it is devoting substantial resources to meet the stricter limits by, but not earlier than, September 1, 2027. Nokia Comments at 1–2. Likewise, Ericsson states it already designs its equipment to meet the current, phase 1 WRC–19 limits, but cannot guarantee meeting the stricter, phase 2 limits prior to September 2027. Ericsson Comments at 4. AT&T states its planning is designed to meet Phase 1, but Phase 2 is significantly more restrictive and will require research and development, arguing against accelerated deadlines. AT&T Reply Comments at 3–4.

[14] *See* 47 CFR 2.803, 30.201. Part 30 transmitters used for fixed point-to-point microwave and point-to-multipoint services do not require certification. *See also* 47 U.S.C. 302a(b) (stating that no person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated under the Act).

AMS/NWA recommends that all legacy equipment installed prior to 2027 that does not meet the more stringent limits should be given a sunset date of September 1, 2028, for retrofit or replacement to comply with the Phase 2 limits. CTIA and AT&T respond that the Commission should not apply a more stringent emissions limit to any equipment that is modified or replaced after September 2027.

23. The Commission seeks comment on adopting a timetable that matches what was adopted at WRC–19; *i.e.,* deployments would be required to meet the first phase limits as of the effective date of any rules the Commission adopts, and deployments after September 1, 2027 would be required to meet the stricter second phase limits. The Commission notes the concern that significant research and development will be required to meet the 2027 deadline in the U.S. The Commission seeks comment on rules for transitioning equipment deployed under the Phase 1 limits, including the proposal of NTIA and others that parties modifying or replacing equipment after September 1, 2027 must meet the more stringent OOBE limit (*e.g.,* −39 dBW). The Commission seeks to understand what would constitute ''replacement'' or ''modification'' of equipment under such a proposal. What sort of technical changes would constitute a ''modification'' for this purpose? Would any alterations qualify, or only those which altered certain technical parameters, such as antenna height? To the extent that parties are correct that the U.S. would be better served by having its equipment ecosystem meet stricter emissions limits by 2024 as is required in Europe,[15] the Commission seeks comment on whether there are any steps it can take to facilitate early adoption of the 2027 limit. Additionally, as noted above, the Commission seeks comment on whether a different implementation schedule would be appropriate for smaller entities and if so, what would be the related costs and benefits.

D. Measurement of Unwanted Emissions

24. Currently, the UMFUS rules permit equipment manufacturers the flexibility of demonstrating compliance with the out-of-band emissions limits by using either a TRP or conductive methodology when obtaining equipment certification. To the extent that the Commission adopts new emissions limits to protect passive sensors in the 23.6–24.0 GHz band, the Commission proposes to allow compliance with the unwanted emissions limits for the 23.6–24.0 GHz band to be demonstrated using TRP measurements, and the Commission seeks comment on whether to permit use of conductive power measurements as well.

25. CTIA, Nokia, and AT&T support the Commission permitting use of either TRP or conductive power methodologies to measure emissions, while NTIA, AGU/AMS/NWA, and Ericsson argue that only TRP should be allowed, consistent with the rules adopted at WRC–19. CTIA urges the Commission to allow for measurement of emissions either in terms of TRP or conductive power to provide manufacturers the flexibility to determine the most feasible approach for a particular device without affecting compliance with the established limits. Other commenters assert that the Commission should not permit the conductive power methodology to be used to measure emissions into the 23.6–24.0 GHz band. NTIA suggests that only TRP measurements should be permitted because the Resolution 750 unwanted emissions limits are based on the use of TRP and because conductive power, while useful, is presently less understood than TRP. Ericsson adds that mobile terrestrial systems are increasingly relying on large arrays of active antenna elements in their design, and there are no physical connections to the antenna elements, making conductive power measurements unnecessary. Ericsson does not anticipate encountering any difficulties in performing TRP measurements on low signal levels in the 24.25–24.45 GHz and 24.75–25.25 GHz bands in a controlled chamber environment, such as anechoic chambers, where reliable and repeatable power measurements can be taken at discrete sets of points from all directions from the antenna. AGU/AMS/NWA recognize Ericsson's support for TRP and state that permitting multiple measurement techniques would make it difficult for the scientific community to use the measurement data from licensees to determine if those emissions may be detrimental to passive sensing measurements.

26. The Commission notes that no party objects to including TRP measurements as an acceptable alternative. As the Commission stated in the Spectrum Frontiers proceeding, however, a TRP measurement of a device requires that EIRP measurements be made around a spherical surface surrounding the device for both polarizations, and as a result it can be time consuming and difficult.[16] Given the complexity of making TRP measurements, the Commission seeks comment on whether allowing equipment manufacturers to use conductive power or other measurement alternatives will result in the increased potential for harmful interference to occur to 23.6–24.0 GHz band passive sensors. The Commission also seeks comment on whether equipment with accessible connections to make conductive power measurements has been manufactured or will likely be manufactured for use in this band. To the extent that commenters advocate against use of conductive power methodology for measuring unwanted emissions into the 23.6–24.0 GHz band, the Commission seeks comment on how to distinguish its disallowance in this band from generally accepted use domestically and internationally in other bands.[17]

E. Other Matters

27. Marcus & Jornet support adopting the WRC limits but ask the Commission to consider alternative antenna technologies or standards that they believe would protect passive sensing. For example, they urge the Commission to entertain waiver requests for alternative antenna technologies that demonstrate that the resulting emissions will protect the passive satellites to the limits stated in Recommendation ITU–R RS.2017–0. The Commission will consider waiver requests in accordance with its normal practice if a specific request is filed, and in light of the specific circumstances, and does not see

[15] In Europe, the initial focus on licensing has been the 26.5–27.5 GHz band. *See, e.g., Global update on spectrum for 4G & 5G,* Qualcomm Corporation, December 2020, available at *https://www.qualcomm.com/media/documents/files/spectrum-for-4g-and-5g.pdf* at 11.

[16] *See Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al.,* GN Docket No. 14–177, IB Docket Nos. 15–256 and 97–95, RM–11664, WT Docket No. 10–112, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014, 8120, para. 303 (2016) (*Spectrum Frontiers 1st R&O*); Tadahiro Watanabe et al., *Total Radiated Power Measurement above 1 GHz with Partially-Spherical Scanning of a Probe,* 2009 Proceedings of the Institute of Electronics, Information and Communication Engineers at 179 (*http://www.ieice.org/proceedings/EMC09/pdf/21R3-3.pdf*). As Ericsson has pointed out, this requires measurements to be made in a controlled environment, such as an anechoic or reverberation chamber. Ericsson Comments at 3–4.

[17] Resolution 750 specifies that the unwanted emissions for all other bands except for 23.6–24.0 GHz should be measured at the antenna port—*i.e.,* they are conductive power limits. ITU Radio Regulations (2020), Resolution 750 (Rev.WRC–19), Table 1, Table 2 Vol. 3 at 519–524 *https://www.itu.int/en/myitu/Publications/2020/09/02/14/23/Radio-Regulations-2020.* The Commission's rules have traditionally specified out-of-band emissions limits in terms of conductive power and only permit TRP as an option in the UMFUS rules, which were adopted in 2016 and which also specify a conductive limit. 47 CFR 30.203(a); *Spectrum Frontiers 1st R&O,* 31 FCC Rcd at 8119–21, paras. 301–304.

the need to seek comment on such requests here.

28. Meanwhile, Choyu Networks offers a proposal for Real-time Geospatial Spectrum Sharing (RGSS) as a method to ensure the protection of EESS radiometers from interference while enabling adjacent and coincident radio frequency spectrum to be used for 5G/6G (or alternative) communication networks. While the concept has potential interest, Choyu Networks admits that further research would be necessary to develop even a proof of concept RGSS system. Accordingly, it would appear to be premature to develop proposed rules based on an RGSS system at this time, but the Commission seeks comment on this alternative proposal.

F. Digital Equity and Inclusion

29. 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 [18] 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 the scope of the Commission's relevant legal authority.

III. Initial Regulatory Flexibility Analysis

30. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines specified in the *NPRM* for comments. The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

31. In the *NPRM,* the Commission proposes to implement certain decisions regarding the 24.25–27.5 GHz band made in the World Radiocommunication Conference held by the International Telecommunication Union (ITU) in 2019 (WRC–19). Specifically, the Commission proposes to adopt the Resolution 750 limits, apply them to all mobile systems, and incorporate those limits into its part 30 technical rules. The Commission also proposes to adopt the WRC–19 timeframes for the Resolution 750 emissions limits. Resolution 750 defines current unwanted emissions limits, measured in terms of Total Radiated Power (TRP), for IMT base and mobile stations and a stricter set of emissions limits for the same stations that will become effective after September 1, 2027. Consistent with Resolution 750, the Commission proposes to adopt the use of TRP to measure compliance with the unwanted emissions limits for the 23.6–24.0 GHz band. The Commission seeks comment on these proposals and invites comment on alternative proposals and approaches such as applying Resolution 750 limits to fixed operations or applying them on a more abbreviated timeframe, adopting stricter emissions limits, and permitting the use of conductive power to measure compliance with the unwanted emissions limits. The Commission also seeks comment on equipment manufacturers' capacity to meet the proposed timelines, and whether adoption of the Resolution 750 emissions limits would increase network deployment costs with the directive to commenters to quantify any additional costs that would be incurred and discuss what if any impact there would be on service. By adopting certain requirements consistent Resolution 750 and aligning them with part 30 of the Commission's rules, the Commission hopes to ensure the protection of Earth Exploration Satellite Service (EESS) passive operations in the 23.6–24.0 GHz band, which are critical for accurate climate monitoring and weather forecasting as well as for climatology science.

B. Legal Basis

32. The proposed action is authorized pursuant to sections 4(i), 301, 302, 303(r), 308, 309, and 333 of the Communications Act of 1934, 47 U.S.C. 154(i), 301, 302a, 303(r), 308, 309, 333.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

33. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

34. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 30.7 million businesses.

35. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

36. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships,

[18] The term ''equity'' is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. *See* Exec. Order No. 13985, 86 FR 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 20, 2021).

villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

37. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 firms had employment of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

38. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. They also include the Upper Microwave Flexible Use Service, the Millimeter Wave Service, and the Local Multipoint Distribution Service (LMDS), where licensees can choose between common carrier and non-common carrier status. The Commission has not yet defined a small business with respect to microwave services. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) and the appropriate size standard for this category under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 had employment of 999 or fewer, and 12 firms had employment of 1,000 employees or more. Thus under this SBA category and the associated standard, the Commission estimates that the majority of fixed microwave service licensees can be considered small.

39. *Satellite Telecommunications.* This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 275 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

40. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.'' The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 show that there were a total of 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 firms had annual receipts of less than $25 million and 15 firms had gross annual receipts of $25 million to $49,999,999. Thus, the Commission estimates that a majority of ''All Other Telecommunications'' firms potentially affected by its actions can be considered small.

41. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has established a small business size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 show that 841 firms operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry is small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

42. The proposal in the *NPRM* to adopt the Resolution 750 emissions limits, emissions limits measurement methodology and emissions limits effective date timetables will not impose any new reporting or recordkeeping requirements. In assessing the cost of compliance for small entities, at this time the Commission is not in a position to determine whether, if adopted, the proposals in the *NPRM* will require small entities to hire professionals to comply, and cannot quantify the cost of compliance with any of the potential rule changes that may be adopted. Comments in response to the *Public Notice* that sought to develop a record on how the Commission should implement the emissions limits contained in Resolution 750 for the active services in the 24 GHz band that raised concerns about increased costs if Resolution 750 emissions limits are adopted, have been taken into consideration, and commenters have been asked to quantify these costs and specify the impact on service in the *NPRM.* The Commission expects the comments the Commission receives on its proposals to include information addressing costs, service impacts, and other matters of concern, which should help the Commission identify and evaluate relevant issues for small entities including compliance costs and other burdens that may result from the

matters raised in the *NPRM,* before adopting final rules.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

43. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

44. Having data on the costs and economic impact of the proposals and approaches discussed in the *NPRM* will allow the Commission to better evaluate options and alternatives for minimization, should there be a significant economic impact on small entities if Resolution 750 emissions limits and effective date timetables are adopted. Accordingly, the Commission expects to more fully consider the economic impact on small entities following its review of comments filed in response to the *NPRM* which as mentioned above in Section D includes a request for comments on the costs and service impacts associated with adoption of Resolution 750 emissions limits. Below the Commission discusses actions taken and alternatives considered by the Commission relating to the proposals in the *NPRM.*

45. Based on the record from the *Public Notice* comments, the Commission's proposal to adopt Resolution 750 emissions limits seems to strike the appropriate balance between protecting passive sensing satellite operations and facilitating use of the 24 GHz band. The Commission could have developed and proposed its own emission limits and related requirements which may have included emissions limits that were stricter or not as strict as the Resolution 750 emissions limits. The Commission could have also simply maintained the existing rules. As discussed in the *NPRM* however, many of the industry participants support adoption of Resolution 750 emission limits to protect extremely sensitive passive satellite operations, facilitate the continued development and deployment of 5G in the U.S., promote international harmonization, enable equipment manufacturers to provide globally marketable equipment, and to be consistent with U.S. policy relating to Radio Regulations. Thus, the synchronicity between the Resolution 750 emissions limits and the Commission's part 30 rules appears to be the best course of action, although small entities that hold licenses subject to these rules may incur increased deployment costs to comply with the more stringent Resolution 750 emissions limits.

46. In the alternative, if the Commission were to propose and adopt its own emissions limits, particularly if the emissions limits were stricter than both the existing emission limits and Resolution 750 emission limits, small entities could be subjected to significantly increased compliance costs without any of the above-mentioned benefits. Further, if the Commission were to propose and adopt less stringent emissions limit requirements or if the Commission simply maintained the existing requirements, the Commission's rules may not provide the necessary protections for passive satellite operations to operate in the 24GHz band and might make it difficult for EESS to make observations free from harmful interference, thereby jeopardizing the accuracy of critical weather forecasting and climatology science data. Instead, the Commission believes its proposal to adopt the Resolution 750 emission limits which were carefully considered and the product of extensive industry collaboration, is the right approach and any potential burdens are outweighed by the benefits of protecting passive observations in the 23.6–24.0 GHz band, including improvements in weather forecasting.

47. Finally, in addition to seeking comment on the costs and service impacts of the Commission's proposals, the *NPRM* provides small entities the opportunity to submit comments on a wide range of issues relating to the proposed emissions limits including but not limited to comment on alternative limits, including the effect that any changes to existing limits would have on smaller entities, comment on the schedule for adoption of any revised limits, including adjustments that should be made for smaller entities to come into compliance, and comment on other related matters that are not addressed in Resolution 750. The Commission's evaluation of the information it receives will shape the final alternatives it considers, the final conclusions it reaches, and any additional steps it takes to minimize any significant economic impact that may occur on small entities as a result of the final rules it promulgates in this proceeding.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

48. None.

IV. Ordering Clauses

49. Accordingly, *it is ordered,* pursuant to sections 4(i), 301, 302, 303(r), 308, 309, and 333 of the Communications Act of 1934, 47 U.S.C. 154(i), 301, 302a, 303(r), 308, 309, 333, that this Notice of Proposed Rulemaking is *hereby adopted* and is *Effective* upon publication in the **Federal Register**. *It is further ordered* that the Commission's Office of Managing Director, Reference Information Center, *shall send* a copy of this 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

Common carriers.

47 CFR Part 30

Communications common carriers.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 2 and 30 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 by revising paragraph (a) pages 54 and 55 in the Table of Frequency Allocations and adding paragraph (c)(146) to read as follows:

§ 2.106 Table of Frequency Allocations.

(a) * * *

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)
23.6-24 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			23.6-24 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
24-24.05 AMATEUR AMATEUR-SATELLITE 5.150			24-24.05 5.150 US211	24-24.05 AMATEUR AMATEUR-SATELLITE 5.150 US211	ISM Equipment (18) Amateur Radio (97)
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)
24.25-24.45 FIXED MOBILE except aeronautical mobile 5.338A 5.532AB	24.25-24.45 FIXED 5.532AA MOBILE except aeronautical mobile 5.338A 5.532AB RADIONAVIGATION	24.25-24.45 FIXED MOBILE 5.338A 5.532AB RADIONAVIGATION	24.25-24.45	24.25-24.45 FIXED MOBILE USxxx	RF Devices (15) Upper Microwave Flexible Use (30)

Table of Frequency Allocations	24.45-31.8 GHz (SHF/EHF)		Page 55
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
24.45-24.65 FIXED INTER-SATELLITE MOBILE except aeronautical mobile 5.338A 5.532AB	24.45-24.65 FIXED 5.532AA INTER-SATELLITE MOBILE except aeronautical mobile 5.338A 5.532AB RADIONAVIGATION 5.533	24.45-24.65 FIXED INTER-SATELLITE MOBILE 5.338A 5.532AB RADIONAVIGATION 5.533	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533		RF Devices (15) Satellite Communications (25)
24.65-24.75 FIXED FIXED-SATELLITE (Earth-to-space) 5.532B INTER-SATELLITE MOBILE except aeronautical mobile 5.338A 5.532AB	24.65-24.75 FIXED 5.532AA INTER-SATELLITE MOBILE except aeronautical mobile 5.338A 5.532AB RADIOLOCATION-SATELLITE (Earth-to-space)	24.65-24.75 FIXED FIXED-SATELLITE (Earth-to-space) 5.532B INTER-SATELLITE MOBILE 5.338A 5.532AB	24.65-24.75 INTER-SATELLITE RADIOLOCATION-SATELLITE (Earth-to-space)		
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 USxxx NG65	RF Devices (15) Satellite Communications (25) Upper Microwave Flexible Use (30)
25.25-25.5 FIXED 5.534A INTER-SATELLITE 5.536 MOBILE 5.338A 5.532AB Standard frequency and time signal-satellite (Earth-to-space)			25.25-25.5 FIXED INTER-SATELLITE 5.536 MOBILE USxxx Standard frequency and time signal-satellite (Earth-to-space)	25.25-25.5 Inter-satellite 5.536 Standard frequency and time signal-satellite (Earth-to-space)	RF Devices (15)
25.5-27 EARTH EXPLORATION-SATELLITE (space-to-Earth) 5.536B FIXED 5.534A INTER-SATELLITE 5.536 MOBILE 5.338A 5.532AB SPACE RESEARCH (space-to-Earth) 5.536C Standard frequency and time signal-satellite (Earth-to-space) 5.536A			25.5-27 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED INTER-SATELLITE 5.536 MOBILE USxxx SPACE RESEARCH (space-to-Earth) Standard frequency and time signal-satellite (Earth-to-space) 5.536A US258	25.5-27 SPACE RESEARCH (space-to-Earth) Inter-satellite 5.536 Standard frequency and time signal-satellite (Earth-to-space) 5.536A US258	
27-27.5 FIXED INTER-SATELLITE 5.536 MOBILE 5.338A 5.532AB	27-27.5 FIXED 5.534A FIXED-SATELLITE (Earth-to-space) INTER-SATELLITE 5.536 5.537 MOBILE 5.338A 5.532AB		27-27.5 FIXED INTER-SATELLITE 5.536 MOBILE USxxx	27-27.5 Inter-satellite 5.536	
27.5-28.5 FIXED 5.537A FIXED-SATELLITE (Earth-to-space) 5.484A 5.516B 5.517A 5.539 MOBILE 5.538 5.540			27.5-30	27.5-28.35 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE	RF Devices (15) Satellite Communications (25) Upper Microwave Flexible Use (30) Fixed Microwave (101)
				28.35-29.1 FIXED-SATELLITE (Earth-to-space) G165 NG527A	RF Devices (15) Satellite Communications (25)

* * * * *

(c) * * *

(146) USxxx In the bands 24.25–24.45 GHz and 24.75–27.5 GHz, the total radiated power (TRP) of emissions from stations in the mobile service in any 200 MHz of the band 23.6–24 GHz shall not exceed −33 dBW/200 MHz for base stations and −29 dBW/200 MHz for mobile stations, and for stations brought into use after September 1, 2027, TRP shall not exceed −39 dBW/200 MHz for base stations and −35 dBW/200 MHz for mobile stations.

* * * * *

PART 30—UPPER MICROWAVE FLEXIBLE USE SERVICE

■ 3. The authority citation for part 30 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 303, 304, 307, 309, 310, 316, 332, 1302, unless otherwise noted.

■ 4. Amend § 30.203 by adding paragraph (d) to read as follows:

§ 30.203 Emission Limits.

* * * * *

(d)(1) In addition to the limits noted above, for licensees operating mobile equipment in the 24.25–24.45 GHz or 24.75–25.25 GHz bands, the total radiated power of emissions in any 200 MHz of the 23.6 − 24.0 GHz band shall not exceed −33 dBW (for base stations) or −29 dBW (for mobile stations).

(2) For mobile equipment placed in service after September 1, 2027, the total radiated power of emissions in any 200 MHz of the 23.6–24.0 GHz band shall not exceed −39 dBW (for base stations) or −35 dBW (for mobile stations).

[FR Doc. 2024–01681 Filed 1–26–24; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 21–341; Report No. 3208; FR ID 198690]

Petitions for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration.

SUMMARY: Petition for Reconsideration (Petitions) have been filed in the Commission's proceeding Thomas C. Power, on behalf of CTIA.

DATES: Oppositions to the Petitions must be filed on or before February 13, 2024. Replies to oppositions must be filed on or before February 8, 2024.

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

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Stephen Wang of the Wireline Competition Bureau, Telecommunications Access Policy Division, at (202) 418–7400 or *Stephen.Wang@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3208, released January 22, 2024. The full text of the Petitions can be accessed online via the Commission's Electronic Comment Filing System at: *http://apps.fcc.gov/ecfs/.* The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Subject: Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support (WC Docket Nos. 10–90, 14–58, 09–197, and 16–271; RM–11868).

Number of Petitions Filed: 1.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–01632 Filed 1–26–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[240118–0018]

RIN 0648–BM48

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Space Force Launches and Supporting Activities at Vandenberg Space Force Base, Vandenberg, California

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

ACTION: Proposed rule, Request for Comments.

SUMMARY: NMFS has received a request from the U.S. Space Force (USSF) for authorization to take marine mammals incidental to launches and supporting activities at Vandenberg Space Force Base (VSFB) in Vandenberg, California from April, 2024 to April, 2029. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue regulations governing the incidental taking of marine mammals incidental to the specified activities. NMFS is proposing regulations to govern that take, and requests comments on the proposed regulations. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision. Missile launches conducted at VSFB, which comprise a smaller portion of the activities, are considered military readiness activities pursuant to the MMPA, as amended by the National Defense Authorization Act for Fiscal Year 2004 (2004 NDAA).

DATES: Comments and information must be received no later than February 28, 2024.

ADDRESSES: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and type NOAA–NMFS–2024–0008 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

A copy of the USSF's application and other supporting documents and documents cited herein may be obtained online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.* In case of problems accessing these documents, please use the contact listed here (see **FOR FURTHER INFORMATION CONTACT**).

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

SUPPLEMENTARY INFORMATION:

Purpose and Need for Regulatory Action

This proposed rule, if promulgated, would establish a framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) for NMFS to authorize the take of marine mammals incidental to space vehicle (rocket) launches, missile launches, and aircraft operations at VSFB.

We received an application from the USSF requesting 5-year regulations and an associated letter of authorization to incidentally take marine mammals. Take is expected to occur by Level B harassment incidental to launch noise and sonic booms. Please see ''Background'' below for definitions of harassment.

Legal Authority for the Proposed Action

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) generally direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made, regulations are promulgated (when applicable), and public notice and an opportunity for public comment are provided.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). If such findings are made, NMFS must prescribe the permissible methods of taking; ''other means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to as ''mitigation''); and requirements pertaining to the monitoring and reporting of such takings.

Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I provide the legal basis for proposing and, if appropriate, issuing regulations and an associated letters of authorization, or LOA(s). This proposed rule describes permissible methods of taking and mitigation, monitoring, and reporting requirements for USSF's proposed activities.

The National Defense Authorization Act for Fiscal Year 2004 (2004 NDAA, Pub. L. 108–136) amended the MMPA to remove the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as applied to a ''military readiness activity.'' Missile launches conducted at VSFB, which comprise a small portion of the activities, are considered military readiness activities pursuant to the MMPA, as amended by the 2004 NDAA.

A subset of the activities described here and for which incidental take of marine mammals is being requested (specifically, missile launches) qualifies as a military readiness activity.

Summary of Major Provisions Within the Rule

Following is a summary of the major provisions of the regulations regarding USSF rocket and missile launches and supporting activities. These measures include:

- Scheduling launches to avoid lowest tides during harbor seal and California sea lion pupping seasons, when practicable;
- Required flight paths for aircraft takeoffs and landings and minimum altitude requirements to reduce disturbance to haul out areas;
- Required minimum altitudes for unscrewed aerial systems (UAS);
- Required acoustic and biological monitoring during a subset of launches to record the presence of marine mammals and document marine mammal responses to the launches; and
- Required semi-monthly surveys of marine mammal haulouts at VSFB and NCI.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must evaluate our proposed action (*i.e.,* the promulgation of regulations and subsequent issuance of incidental take authorization) and alternatives with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the proposed action qualifies to be categorically excluded from further National Environmental Policy Act (NEPA) review.

Information in the USSF application and this notice collectively provide the environmental information related to proposed issuance of these regulations and subsequent incidental take authorization for public review and comment. We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the request for incidental take authorization.

Summary of Request

On November 2, 2022, NMFS received a request from USSF requesting authorization for the take of marine mammals incidental to rocket and missile launch activities and aircraft operations at VSFB in Vandenberg, California. Following NMFS' review of the materials provided, USSF submitted a revised application on May 25, 2023. The application was deemed adequate and complete on May 26, 2023. USSF's request for authorization pertains to incidental take of 6 species of marine mammals, by Level B harassment only.

On June 15, 2023, we published a notice of receipt of the USSF's application in the **Federal Register** (88 FR 39231), requesting comments and information related to the USSF request for 30 days. We received no responsive comments.

The take of marine mammals incidental to rocket and missile launches and aircraft operations at VSFB is currently authorized by NMFS via an LOA issued under current incidental take regulations, which are effective from April 10, 2019 through April 10, 2024 (84 FR 14314; April 10, 2019). To date, NMFS has promulgated incidental take regulations under the MMPA for substantially similar activities at the site four times.

Responsibility for activities at the site were transferred from the U.S. Air Force (USAF) to the USSF in May, 2021 and both entities complied with the requirements (*e.g.,* mitigation, monitoring, and reporting) of the current LOA. Information regarding the monitoring results may be found in the Effects of the Specified Activity on Marine Mammals and their Habitat.

Description of Proposed Activity

Overview

USSF operations include launch activities for commercial entities, as well as the Department of Defense,

National Aeronautics and Space Administration. VSFB is the primary west coast launch facility for placing commercial, government and military satellites into polar orbit on uncrewed rockets. A subset of rocket launches include a ''boost-back'' maneuver, wherein the first stage booster returns to land at VSFB or at a barge located offshore, for recovery and future re-use. VSFB is also the site of launches for testing and evaluation of intercontinental ballistic missiles (ICBMs) and sub-orbital target and interceptor missiles. The missile activities, which represent a small subset of the activities, are considered Military Readiness Activities.

Rocket and missile launch activities create noise (launch noise and/or sonic booms (overpressure of high-energy impulsive sound)) and visual stimulus that can take pinnipeds hauled out on shore along the periphery of VSFB by Level B harassment. In addition, a subset of rocket launches can create noise that affects pinniped haul outs along the shoreline of the Northern Channel Islands (NCI), particularly San Miguel and Santa Rosa islands.

The USSF anticipates incremental increases in launch activity each year with a peak in activity of no more than 110 rocket launches and 15 missile launches occurring in any one year (table 1).

TABLE 1—ANTICIPATED NUMBER OF LAUNCHES AND UAS OPERATIONS, BY YEAR

Year	Rocket launches	Missile launches	UAS operations
2024	40	15	100
2025	55	15	100
2026	75	15	100
2027	100	15	100
2028	110	15	100

In addition to rocket and missile launch activities at VSFB, aircraft conduct flight operations to support activities at VSFB. Here, ''aircraft'' includes crewed fixed wing airplanes and rotary wing helicopters, and different types of UAS. Slightly more than 600 aircraft flights occur each year, and approximately 100 of those flights are UAS. These flight operations address mission needs including emergency response, search-and-rescue, delivery of rocket components, launch mission support, security reconnaissance, and training. VSFB no longer has aircraft stationed on site, but ''transient'' aircraft may be stationed at the site on a temporary basis several times per year for periods of two or more weeks per operation. Take of hauled out pinnipeds from crewed fixed-wing airplanes and helicopter operations are not anticipated because these aircraft adhere to flight paths, minimum altitude requirements, and a buffer zone established to avoid haulouts when possible. In addition, pinnipeds that customarily haul out at sites near the airfield may be acclimated to aircraft and helicopter overflights. However, there is a limited potential for take to result from UAS operations. UAS are categorized by size into five classes, 0–5. While harassment of hauled out pinnipeds from UAS classes 0–2 is unlikely to occur at altitudes of 200 feet (ft) and above (Erbe *et al.,* 2017; Pomeroy *et al.,* 2015; Sweeney *et al.,* 2016; Sweeney and Gelatt, 2017), given that classes 0–3 fly at lower altitudes, USSF anticipates that these classes could cause take of hauled out marine mammals due to visual disturbance, and NMFS concurs. Larger UAS (classes 4 and 5) that utilize the airfield for take offs and landings, must adhere to minimum altitude criteria and buffer zones around haul-out areas, as described in the Proposed Mitigation section. While pinnipeds at nearby haulouts may show brief reactions during takeoffs and landings of classes 4 and 5, animals near these haulouts are generally habituated to these activities and are not expected to have behavioral reactions that would rise to the level of take by Level B harassment.

Dates and Duration

The activities proposed by USSF would occur for 5 years, from April 2024 through April 2029. Activities would occur year-round and could occur at any time of day, during any or all days of the week. As annual launch numbers increase, more than one launch could occur on some days.

Specified Geographical Region

VSFB occupies approximately 99,100 acres of land and approximately 68 kilometers (km) of coastline in central Santa Barbara County, California (Figure 1). The Santa Ynez River and State Highway 246 divide the base into two distinct parts, North Base and South Base.

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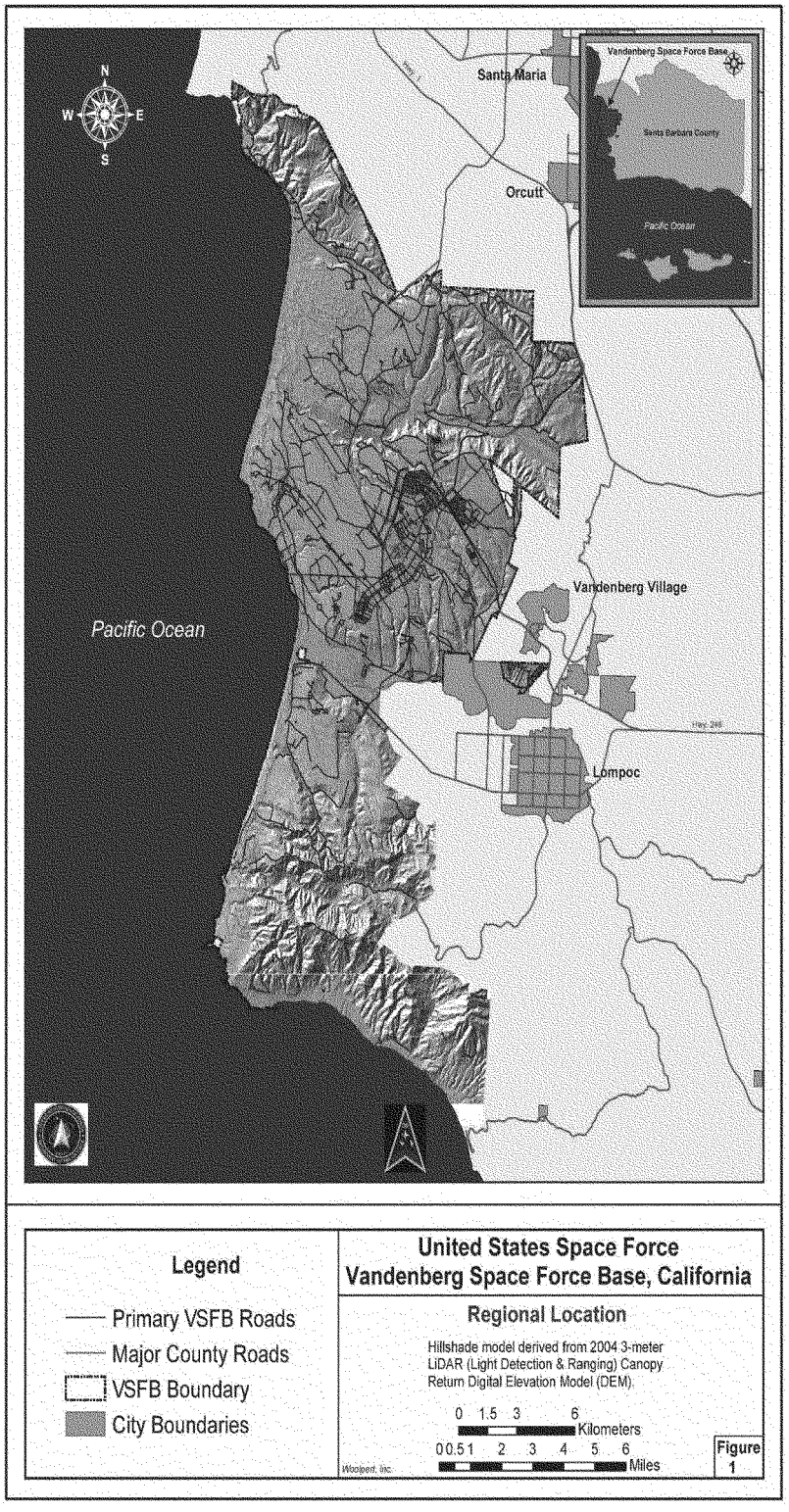

Figure 1 – Vandenberg Space Force Base and Vicinity

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Pinnipeds making use of haul-out sites along the coastline of VSFB are affected by launch noise. In addition to these effects at VSFB, some of the rocket launches and first-stage recoveries originating at VSFB may result in sonic booms that impact portions of the NCI, and as such NCI is also considered part of the project area. The NCI comprises four islands (San Miguel, Santa Rosa, Santa Cruz, and Anacapa) located approximately 50 km south of Point

Conception, which is located on the mainland approximately 6.5 km south of VSFB. The most proximate launch facility on the base and the nearest landmark on the NCI (Harris Point on San Miguel Island) are separated by more than 55 km.

Rocket and missile flights originate from several different launch locations on VSFB, distributed across both North Base and South Base. Currently, there are nine active missile launch sites and seven active space launch facilities. In addition, two new launch sites and one former site on the base are expected to become operational in the future. The two largest classes of UAS use the VSFB airfield, three smaller classes of UAS can be launched from any location that is in keeping with buffers to pinniped haulout and rookery sites. The proximity of the launch sites in relation to specific pinniped haul-out and rookery areas at VSFB is shown in table 2. LF–09 is the closest active missile launch facility to a haul-out area, located about 0.5 km from Little Sal, and LF–10 is the most remote facility from any haul-out area, located about 2.7 km from Lion's Head (see figure 2 in USSF's application).

While rocket and missile launches do not occur in National Marine Sanctuary waters, depending on the direction of a given launch, rockets and missiles may cross over the Channel Islands National Marine Sanctuary.

TABLE 2—REPRESENTATIVE ROCKET LAUNCH ACTIVITIES AND DISTANCE TO NEAREST HAUL-OUT SITE

Rocket	Rocket diameter (ft)	Rocket height (ft)	Launch facility	Nearest pinniped haul-out	Distance to haul-out (km)
Current (and recent) launch programs					
Atlas V	12.5	191	SLC–3E	North Rocky Point	9.9
Firefly	6	95	SLC–2W	Purisima Point	2.3
Delta IV	16	236	SLC–6	North Rocky Point	2.3
Falcon 9	12	230	SLC–4E	North Rocky Point	8.2
Minotaur	8	81	SLC–8	North Rocky Point	1.6
Minotaur/Taurus	8	91	LF–576E	South Spur Road	0.8
Minotaur/Buzzard	6	63	TP–01	Purisima Point	7.1
Future launch programs					
Vector	4	40	SLC–8	North Rocky Point	1.6
Daytona	5	62	SLC–5	Point Arguello	3.9
New Glenn	23	200	SLC–9	Point Arguello	10.2
Vulcan	17.7	>220	SLC–3E	Point Arguello	8.75
Terran	7.5	126	SLC–11	North Rocky Point	1.2

Abbreviations: SLC = Space Launch Complex; LF = Launch Facility; E = East; W = West; TBD: To be determined.

Detailed Description of the Specified Activity

VSFB is the primary west coast launch facility for placing commercial, government, and military satellites into polar orbit on uncrewed launch vehicles, and for the testing and evaluation of ICBMs and sub-orbital target and interceptor missiles by the Missile Defense Agency (MDA). Below, we discuss in detail, USSF's proposed rocket launches and recoveries, missile launches, and aircraft operations including UAS.

Rocket Launches

Table 1 shows estimates of the numbers proposed rocket launches, missile launches, and UAS activities for each year. Reporting years would span one year from date of LOA issuance and each successive year thereafter, in accordance with the reporting requirements described in the Proposed Monitoring and Reporting section, below. The anticipated maximum number of launches in one year shown in table 1 is similar to the maximum number of launches in one year analyzed in the 2019 rulemaking (84 FR 14314; April 10, 2019), with a small increase. For this rulemaking, USSF anticipates that the total number of launches would increase from the 500 analyzed for the 2019 rulemaking to 550 over the effective period of this rule. Similarly, the estimated number of launches that may cause a sonic boom that affect haulouts at NCI are proposed to increase from 88 to 104 over the effective period of this rulemaking.

A large percentage of this anticipated increase is expected to consist of smaller launch payloads moved by smaller rockets than previously utilized at VSFB. Accordingly, USSF is developing a new Small Launch Vehicles program (SLV) for the South Base launch sites at VSFB. This program is expected to require as many as 100 launches annually (included in the basewide 110 rocket launch/year total) and may involve two launches per day on some days. We note that ''small'' rockets (generally those less than 100 ft tall) are less likely to generate sonic booms that could disturb animals at haul outs.

Whether or not sonic booms from launches originating at VSFB affect the NCI depends on the trajectory of the launch, the size of the rocket, and other factors such as environmental conditions. In any given year of this proposed rule, it is expected that fewer than 10 percent of small rockets, 25 percent of medium rockets and 33 percent of large rockets would ''boom'' the NCI. When these sonic booms events do occur, they tend to disturb animals at haulouts on San Miguel and (occasionally) Santa Rosa Islands. Santa Cruz and Anacapa Islands are not expected to be impacted by sonic booms in excess of 1 pound per square foot (psf). Further, based on several years of onsite behavioral observations and monitoring data, VSFB maintains and NMFS concurs that harassment of marine mammals is unlikely to occur when the intensity of a sonic boom is below 2(psf). Although exact numbers are uncertain, launches that generate a sonic boom at NCI higher than 2 psf are expected to occur no more than 5 times in authorization year 2024, 12 times in 2025, 24 times in 2026, 30 times in 2027 and 33 times in 2028.

Some rocket launches include ''boost back'' and landing of a rocket component at a launch site on the base or on a floating offsite recovery barge.

These activities include the use of parachutes and parafoils to control the descent of components to the barge. These are usually recovered, but on occasion, parachutes or parafoils are abandoned, and they sink to the ocean floor. The parachutes would sink to a depth of 1,000 ft within 46 minutes and the parafoil (if it is not recovered) would reach the same depth in one to two hours. Therefore, given the short duration that an unrecovered parachute or parafoil would remain in the water column for a given launch, NMFS does not anticipate that they would take marine mammals, and the likelihood is further reduced by the relative infrequency of instances where parachutes or parafoils are used but not recovered.

Missiles

A variety of small missiles are launched from various Launch Facilities (LFs) on north VSFB including Minuteman III, an ICBM which is launched from underground silos. USSF is currently modifying several existing silos for testing of the new Ground Based Strategic Defense (GBSD) program, which is expected to replace the Minuteman III as early as 2026. Several types of interceptor and target vehicles are also launched for the MDA. The MDA develops various systems including the Ballistic Missile Defense System (BMDS). The MDA estimates that no more than three missile tests per quarter will be conducted each year over the next 5 years, and none of the missiles would be significantly larger than the Minuteman III currently in use. This limitation (three missiles per quarter and none being larger than the Minuteman III) represents the anticipated extent of missile testing at VSFB over the next 5 years. No more than 15 missiles would be launched per year (table 1).

The trajectories of all missile launches are generally westward and USSF indicates that they do not cause sonic boom impacts on the California mainland or the NCI. Missiles also transition to nearly horizontal flight within seconds of launch and do not create extended noise impacts to the coastline or result in a high degree of response from hauled-out pinnipeds. For these reasons, take on the NCI arising from missile launch operations is not anticipated or requested. All take associated with missile launch operations would occur on VSFB.

Aircraft Operations

The VSFB airfield, located on north VSFB, supports various aircraft operations. Aircraft operations include fixed wing airplanes, rotary wing helicopters and UAS. Of these, only UAS is expected to result in take, as discussed below.

Over the past 5 years, an average of slightly more than 600 flights has occurred each year, approximately 100 of which have been UAS, and USSF anticipates 100 UAS flights per year during the effective period of this proposed rule (table 1). Fixed-wing aircraft use VSFB for various purposes, including delivering rocket or missile components and training exercises. Helicopter (or, rotary wing) operations also occasionally occur at VSFB including transits through the area, exercises and mission support. Emergency helicopter operations, including but not limited to search-and-rescue and wildfire containment actions, also occur occasionally.

Three approved flight paths for airfield access have been configured in order to avoid disturbances from aircraft at established pinniped haul out sites. As a result of these routing measures and minimum altitude criteria, and given that pinnipeds that haul out at VSFB are acclimatized to aircraft and helicopter overflights, USSF does not anticipate take of hauled out pinnipeds from fixed-wing and helicopter operations using the airfield, and NMFS concurs. In addition, no pinniped responses to fixed or rotary wing aircraft have ever been reported and none are anticipated (MMCG and SAIC 2012a).

UAS operations at VSFB may include either rotary or fixed wing uncrewed aircraft. These are typically divided into as many as six classes, which graduate in size from class 0 (which are often smaller than 5 inches in diameter and always weigh less than one pound) to class 5 (which can be as large as a small piloted aircraft). UAS classes 03 can be used in almost any location, while classes 4 and 5 typically require a runway and for that reason would only be operated from the VSFB airfield. The launch frequency and class of UAS conducting the flights is not possible to predict. As stated above, there is a limited potential for take to result from UAS operations. While harassment of hauled out pinnipeds from class 02 is unlikely to occur at altitudes of 200 ft and above (Erbe *et al.,* 2017; Pomeroy *et al.,* 2015; Sweeney *et al.,* 2016; Sweeney and Gelatt, 2017), given that classes 0–3 fly at lower altitudes, USSF anticipates that these classes could cause take of hauled out marine mammals due to visual disturbance, and NMFS concurs.

Other Activities

In addition to the activities described above, USSF operates a small harbor on the south coast, immediately adjacent to a haulout area. Operation of the harbor currently entails a maximum of two large vessel visits per year and one dredging operation typically conducted every other year. In addition, VSFB estimates that SpaceX conducts approximately 30 2-day operations per year using smaller vessels. NMFS does not anticipate take of marine mammals due to these activities for the reasons described herein, and they are not discussed further beyond the brief explanation provided here. While marine mammals may behaviorally respond in some small degree to the noise generated by dredging operations, given the slow, predictable movements of these vessels, and absent any other contextual features that would cause enhanced concern, NMFS does not expect the proposed dredging to result in the take of marine mammals. Further, routine harbor operations are not anticipated to result in take of marine mammals.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and relevant behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions and to additional information regarding population trends and threats that may be found in NMFS' Stock Assessment Reports (SARs); *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*). More general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

Table 3 lists all species or stocks for which take is expected and proposed to be authorized for this activity, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural

mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. We also refer to studies and onsite monitoring to inform abundance and distribution trends within the project area. For some species, such as the Guadalupe fur seal, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' SARs. All values presented in table 3 are the most recent available at the time of publication and are available online at: *https://ww.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.*

TABLE 3—MARINE MAMMAL SPECIES [1] LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [2]	Stock abundance (CV, N_{min}, most recent abundance survey) [3]	PBR	Annual M/SI [4]
Order Carnivora—Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California Sea Lion	*Zalophus californianus*	United States	-, -, N	257,606 (N/A, 233,515, 2014)	14,011	>321
Guadalupe Fur Seal	*Arctocephalus townsendi*	Mexico	T, D, Y	34,187 (N/A, 31,019, 2013)	1,062	≥3.8
Northern Fur Seal	*Callorhinus ursinus*	California	-, D, N	14,050 (N/A, 7,524, 2013)	451	1.8
Steller Sea Lion	*Eumetopias jubatus*	Eastern	-, -, N	43,201 (N/A, 43,201, 2017)	2,592	112
Family Phocidae (earless seals):						
Harbor Seal	*Phoca vitulina*	California	-, -, N	30,968 (N/A, 27,348, 2012)	1,641	43
Northern Elephant Seal	*Mirounga angustirostris*	California Breeding	-, -, N	187,386 (N/A, 85,369, 2013)	5,122	13.7

[1] Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (*https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/;* Committee on Taxonomy (2022)).

[2] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[3] NMFS marine mammal SARss online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region.* CV is the coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[4] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

As indicated above, all six species (with six managed stocks) temporally and spatially co-occur with the specified activity to the degree that take is reasonably likely to occur. In addition to the 6 species of pinniped expected to be affected by the specified activities, an additional 28 species of cetaceans are expected to occur or could occur in the waters near the project area. However, we have determined that the potential stressors associated with the specified activities that could result in take of marine mammals *(i.e.,* launch noise, sonic booms and disturbance from aircraft operations) only have the potential to result in harassment of marine mammals that are hauled out of the water. Noise from the specified activities is unlikely to ensonify subsurface waters to an extent that could result in take of cetaceans. Therefore, we have concluded that the likelihood of the proposed activities resulting in the harassment of any cetacean to be so low as to be discountable. Accordingly, cetaceans are not considered further in this proposed rule. Further, only one live northern fur seal has been reported at VSFB in the past 25 years (SBMMC 2012), at least two deceased fur seals have been found on VSFB. Guadalupe fur seals have yet to be reported at VSFB. Therefore, it is extremely unlikely that any fur seals will be taken at that site. However as discussed below, NMFS anticipates that both species could be taken at NCI. Steller sea lions are not anticipated to occur at NCI, and therefore, are not expected to be taken at that site, but are likely to be taken at VSFB. Harbor seal, northern elephant seal, and California sea lion are likely to be taken at both NCI and VSFB.

California sea otters (*Enhydra lutris nereis*) may also be found in waters off of VSFB, which is near the southern extent of their range. However, California sea otters are managed by the U.S. Fish and Wildlife Service and are not considered further in this proposed rule.

Pacific Harbor Seal (California Stock)

Harbor seals haul out on intertidal sandbars, rocky shores and beaches along the California coast and islands including VSFB and, to a lesser extent, NCI. Coastwide, from 400 to 600 haul-out sites exist (Carretta *et al.,* 2011; Caretta *et al.,* 2012) and few to several hundred animals may occupy each site when conditions are favorable. Harbor seals generally haul out in greatest numbers during the afternoon but at some sites the beach profile and tidal inundation results in limited or no suitable haul out area. This is the case in some areas around VSFB, where shifting of coastal landforms including beaches, banks and bluffs affect availability of suitable haul out area. Considerable haul out area is consistently available at NCI, irrespective of tidal influence.

Harbor seals generally forage locally but individuals, particularly juveniles, may travel up to 500 km either to find food or suitable breeding areas. The greatest numbers haul out during the molting season, from May into August throughout California (Carretta *et al.,* 2011; Caretta *et al.,* 2012). In the vicinity of the project area, the pupping season peaks from mid-February through April; and at VSFB, it extends from March through June. Molting season follows, sometimes overlapping the pupping

season. Harbor seal numbers at VSFB haul out areas usually peak in June, but there is some variability (in some years the highest counts occurred in the fall or winter months). Harbor seal pupping also occurs on NCI from March to June.

Harbor seals regularly use haulouts along the shoreline at VSFB. Haulout sites on VSFB can be found on both south VSFB and north VSFB, including Lion's Head and Little Sal.

California Sea Lion (U.S. Stock)

The California sea lion occurs in the eastern north Pacific from Puerto Vallarta, Mexico, through the Gulf of California and north along the west coast of North America to the Gulf of Alaska (Barlow *et al.,* 2008; DeLong *et al.,* 2017b; Jefferson *et al.,* 2008). Typically, during the summer, California sea lions congregate near rookery islands and specific open-water areas, including NCI where one of the largest rookeries is found. The primary rookeries off the coast of the United States are on San Nicolas (SNI), San Miguel, Santa Barbara, and San Clemente Islands (Le Boeuf & Bonnell 1980; Lowry *et al.,* 1992; Carretta *et al.,* 2000; Lowry & Forney 2005; Lowry *et al.,* 2017). About 50 percent of the births on San Miguel Island occur in the Point Bennett area, during a pupping season that runs from May to August.

In the nonbreeding season, beginning in late summer, adult and subadult males migrate northward along the coast of California to more northerly states, and are largely absent from the southern breeding areas until the following spring (Laake, 2017; Lowry & Forney, 2005). Females and juveniles also disperse to areas north and west of NCI, but tend to stay in the Southern California area. (Lowry & Forney, 2005; Melin & DeLong, 2000; Thomas *et al.,* 2010).

California sea lions also occur in open ocean and coastal waters (Barlow *et al.,* 2008; Jefferson *et al.,* 2008). Animals usually occur in waters over the continental shelf and slope; however, they are also known to occupy locations far offshore in deep, oceanic waters, such as Guadalupe Island and Alijos Rocks off Baja California (Jefferson *et al.,* 2008; Melin *et al.,* 2008; Urrutia & Dziendzielewski, 2012; Zavala-Gonzalez & Mellink, 2000). California sea lions are the most frequently sighted pinnipeds offshore of Southern California during the spring, and peak abundance is during the May through August breeding season (Green *et al.,* 1992; Keiper *et al.,* 2005; Lowry *et al.,* 2017).

California sea lions haul out at sites in the southern portion of VSFB and have not been observed at any northern VSFB haulout locations, except for rare individuals affected by domoic acid poisoning (USAF 2020; Evans, 2020). There is no known successful breeding of this species on VSFB.

In 2019 a significant die-off of California sea lions, presumed to be caused by domoic acid toxicity associated with red tide algal blooms, was noted. This event included most of Southern and Central California and included more than 80 deceased California sea lions on VSFB beaches (USAF 2020; Evans, 2020).

California sea lion pupping season begins in late May, peaking on or around the third week of June. Female sea lions nurse their pups for 1 to 2 days, before embarking on progressively longer spans of time away from the haulout site to forage. Typically, the adult female spends 2 to 5 days feeding, before returning to nurse the pup. Females continue a pattern of going to sea for several days and nursing ashore for several days until pups are weaned. The weaning period continues for about 8 to 12 months (Carretta *et al.,* 2011; Caretta *et al.,* 2012).

Females usually range from the Mexican border to as far north as San Francisco. If prey is scarce, particularly during El Niño years, they have been known to extend their range into Oregon. Adult males claim their breeding territories in late May, usually leaving by August, with most animals moving north. Adult males may venture as far north as British Columbia or southeast Alaska.

Northern Elephant Seal (California Breeding Stock)

The California breeding stock of the Northern elephant seal extends from the Channel Islands to the southeast Farallon Islands (Carretta *et al.,* 201; Caretta *et al.,* 2012). There are two distinct populations of northern elephant seals: one that breeds in Baja California, Mexico; and a population that breeds in California (Garcia-Aguilar *et al.* 2018). The northern elephant seals in the VSFB Project Area are from the California Breeding stock, although elephant seals from Baja Mexico migrate through the Project Area (Aurioles-Gamboa & Camacho-Rios 2007; Carretta *et al.,* 2017; Carretta *et al.,* 2020). Females and juveniles feed from California into Washington, while males travel as far as Alaska and the Aleutians. Males and females return between March and August to molt.

Northern elephant seals spend little time nearshore and migrate four times a year, traveling to and from breeding/pupping and molting areas and spending more than 80 percent of their annual cycle at sea (Robinson *et al.,* 2012; Lowry *et al.,* 2014; Lowry *et al.,* 2017; Carretta *et al.,* 2020). Peak abundance in California is during the January–February breeding season and when adults return to molt from April to July (Lowry *et al.* 2014; Lowry *et al.,* 2017).

Although northern elephant seals haul out at south VSFB locations, they were not observed at north VSFB haul outs in 2019 or in 2020. Breeding has been observed on south VSFB since 2017 (Evans, 2020), and pupping at VSFB was first documented in January 2017. Additional pupping has been observed every year since 2017, increasing each year, with a maximum of approximately 40 pups in 2022. Pupping occurs from January through March, with peak breeding in mid-February. Pups are weaned at 3 to 4 weeks of age, then abandoned and undergo their first molt, which can take several weeks. They then return to sea and customary offshore waters at the end of the molting cycle. Currently, the Amphitheatre Cove haul out at VSFB is the primary site used by elephant seals for breeding and pupping, however another location, Boathouse Beach, was the site for two successful pups each year in 2021 and 2022. All age classes and sexes haul out on VSFB, at different times of the year, to rest, undergo molting and to reproduce or occasionally to rest at other times of year. On NCI, pupping activity occurs from December through March. While some animals disperse after the weaning period, elephant seals also haul out onshore during the seasonal molting period from March to August.

Steller Sea Lion (Eastern U.S. Stock)

The eastern U.S. stock of Steller sea lions ranges from Cape Suckling, Alaska, to California (Cape Suckling is almost at the northernmost part of the Gulf of Alaska, at long. 140° W). Año Nuevo Island, in central California, is now the southernmost known breeding colony for Steller sea lions (Carretta *et al.,* 2011; Caretta *et al.,* 2012), although they did breed at San Miguel Island until the 1982–1983 El Niño. Sightings were rare after that. From 2010 to 2012, individual Steller sea lions have shown up along the mainland coast of the Southern California Bight, often hauled out on navigation buoys. At VSFB, Steller sea lions have been observed in generally low numbers since approximately 2012, but no breeding or pupping behavior has been documented.

Steller sea lions range along the north Pacific from northern Japan to California (Perrin *et al.,* 2009), with centers of

abundance and distribution in the Gulf of Alaska and Aleutian Islands (Muto *et al.,* 2020). There have also been reports of Steller sea lions in waters off Mexico as far south as the various islands off the port of Manzanillo in Colima, Mexico (Gallo-Reynoso *et al.,* 2020). The eastern U.S. stock (or DPS) of Steller sea lion is defined as the population occurring east of long. 144° W. The locations and distribution of the eastern population's breeding sites along the U.S. Pacific coast have shifted northward, with fewer breeding sites in southern California and more sites established in Washington and southeast Alaska (Pitcher *et al.,* 2007; Wiles, 2015). Steller sea lions pups were known to be born at San Miguel Island up until 1981 (Pitcher *et al.,* 2007; National Marine Fisheries Service 2008; Muto *et al.,* 2020), and as the population continues to increase, Steller sea lions may re-establish a breeding colony on San Miguel Island. However, currently no pupping occurs on NCI.

Despite the species' general absence from the area, some Steller sea lions (one to two individuals at a time) have been sighted in the Channel Islands and vicinity. Individual adult and subadult male Steller sea lions have been seen hauled out at San Miguel Island during the fall and winter, and adult and subadult males have occasionally been seen on rocks north of Northwest Point at San Miguel Island in the summer (Delong, 2019). Aerial surveys for pinnipeds in the Channel Islands from 2011 to 2015 encountered a single Steller sea lion at SNI in 2013 (Lowry *et al.,* 2017). Additional sightings have included a single male that was seen hauled out on an oil production structure off Long Beach during the winter of 2015 and 2016, a Steller observed in 2018 hauled out on a buoy outside Ventura Harbor, and a lone adult female that gave birth to and reared a pup on San Miguel Island in the summer of 2017 (Delong 2019).

In April and May 2012 Steller sea lions were observed at VSFB marking the first time this species had been reported at VSFB over the prior two decades. Since 2012, Steller sea lions have been observed occasionally in routine monthly surveys, with a peak of 16 individuals recorded. In 2019, up to four Steller sea lions were observed on south VSFB during monthly marine mammal counts, and none were observed during monthly counts in the years that followed. While flying to VSFB from Santa Maria for an unrelated project, contract biologists observed and photographed three Steller sea lions at Lion Rock (Point Sal) in October 2017 (Ball, 2017). This offshore haulout site can be exposed to in-air noise levels from missile launches and is included in the take estimates provided below.

Northern Fur Seal (San Miguel Island Stock)

Northern fur seals range from southern California to the Bering Sea and west to the Okhotsk Sea and Japan. About 74 percent of the breeding population occurs far north of the project area, on the Pribilof Islands of the southern Bering Sea. The San Miguel Island stock comprises less than one percent of the population. In general, Northern fur seals are highly pelagic, and adult northern fur seals spend more than 300 days per year (about 80 percent of their time) at sea, generally well offshore. While at sea, northern fur seals range throughout the North Pacific (Carretta *et al.,* 2011; Caretta *et al.,* 2012). Migrating seals and those along the U.S. west coast are typically found over the edge of the continental shelf and slope (Kenyon & Wilke 1953; Sterling & Ream 2004; Gentry 2009; Adams *et al.* 2014). Northern fur seals have not been observed at any VSFB haulout location (NMFS, 2020b) and are not expected to be subject to noise levels at the base that may cause behavioral effects.

Adult males stay on or near haul-outs on NCI from May through August, with some non-breeding individuals remaining until November. Beginning in May, male seals start returning to the breeding islands. Upon arrival males seek to occupy and defend optimal breeding territories before the females arrive. Because males do not leave the breeding territory to feed, their ability to fast is critical. Males remain on their territory an average of 46 days. Adult females generally stay on or near haul-outs beginning in June and extending to fall, sometimes to as late as November. Peak pupping is in early July. Females nurse their newborn pups for 5 to 6 days and then go to sea to forage for 3.5 to 9.8 days. Females continue to cycle between land and sea for the remainder of the nursing period. Their time on land declines to less than 2 days and their time at sea generally increases. Pups are nursed until weaned (about 4 months) and leave the breeding site before their mothers to forage independently. Some juveniles are present year-round, but most juveniles and adults head for the open ocean and a pelagic existence until the following year. Pupping occurs at NCI (San Miguel Island) from June through August. Pupping does not occur at VSFB.

Guadalupe Fur Seal (Mexico)

Satellite tracking data from Guadalupe fur seals tagged at Guadalupe Island in Mexico, have shown that the seals transit through offshore waters between 50 and 300 km from the U.S. west coast (Norris *et al.* 2015; Norris, 2017b; Norris, 2017a; Norris & Elorriaga-Verplancken, 2020). Based on that data, the seals could occur in ocean and coastal waters within or adjacent to the VSFB Project Area. However, Guadalupe fur seals have not been observed at any VSFB haulout locations (USAF 2020; Evans, 2020) and are not expected to be subject to in-air noise levels at VSFB that may cause behavioral disturbance. Guadalupe fur seals are only rarely observed on San Miguel and San Nicolas Islands, typically at Point Bennett, and are almost always sighted as a lone individual. Lone adult males twice established territories on San Nicolas Island which lasted a few years each time, but no females arrived (Carretta *et al.,* 2011; Caretta *et al.,* 2012). As such, there is no pupping activity within the project area.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take of Marine Mammals section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

In-air acoustic effects resulting from rocket launches and recoveries, missile launches and UAS operations may affect hauled out marine mammals. The effects of noise from the USSF's proposed activities have the potential to result in Level B harassment of marine mammals in the action area.

Description of Sound Sources

This section contains a brief technical background on sound, the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant

to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the dB. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure and is a logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source while the received level is the SPL at the listener's position. Note that all airborne sound levels in this document are referenced to a pressure of 20 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa^2-s) represents the total energy contained within a pulse and considers both intensity and duration of exposure. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-p) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure. Another common metric is peak-to-peak sound pressure (pk-pk), which is the algebraic difference between the peak positive and peak negative sound pressures. Peak-to-peak pressure is typically approximately 6 dB higher than peak pressure (Southall *et al.,* 2007).

A-weighting is applied to instrument-measured sound levels in an effort to account for the relative loudness perceived by the human ear, as the ear is less sensitive to low audio frequencies, and is commonly used in measuring airborne noise. The relative sensitivity of pinnipeds listening in air to different frequencies is more-or-less similar to that of humans (Richardson *et al.,* 1995), so A-weighting may, as a first approximation, be relevant to pinnipeds listening to moderate-level sounds.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from a given activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986; ANSI, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

The effects of sounds on marine mammals are dependent on several factors, including the species, size, and behavior (feeding, nursing, resting, *etc.*) of the animal; the intensity and duration of the sound; and the sound propagation properties of the environment. Impacts to marine species can result from physiological and behavioral responses to both the type and strength of the acoustic signature (Viada *et al.,* 2008). The type and severity of behavioral impacts are more difficult to define due to limited studies addressing the behavioral effects of sounds on marine mammals. Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973).

The effects of sounds from the proposed activities are expected to result in behavioral disturbance of marine mammals. Due to the expected sound levels of the activities proposed and the distance of the activity from marine mammal habitat, the effects of sounds from the proposed activities are not expected to result in temporary or permanent hearing impairment (TTS and PTS, respectively), non-auditory physical or physiological effects, or masking in marine mammals. Data from monitoring reports associated with authorizations issued by NMFS previously for similar activities in the same location as the planned activities (described further below) provides further support for the assertion that TTS, PTS, non-auditory physical or physiological effects, and masking are not likely to occur (USAF, 2013b; SAIC,

2012). Therefore, TTS, PTS, non-auditory physical or physiological effects, and masking are not discussed further in this section.

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source, ambient noise, and the receiving animal's hearing, motivation, experience, demography, behavior at time of exposure, life stage, depth) and can be difficult to predict (*e.g.,* Southall, *et al.,* 2007, Southall *et al.,* 2021; Ellison *et al.,* 2012).

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. Behavioral state may affect the type of response as well. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003).

Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud underwater sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). These may be of limited relevance to the proposed activities given that airborne sound, and not underwater sound, may result in harassment of marine mammals as a result of the proposed activities; however we present this information as background on the potential impacts of sound on marine mammals. Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Thorson and Reyff, 2006; Gordon *et al.,* 2004; Wartzok *et al.,* 2003; Nowacek *et al.,* 2007).

The onset of noise can result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include: reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior; avoidance of areas where sound sources are located; and/or flight responses (Richardson *et al.,* 1995). Not all behavioral responses are indicative of a take. For further discussion of behavioral responses as they relate to take, see table 5.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could potentially be biologically significant if the change affects growth, survival, or reproduction. The onset of behavioral disturbance from anthropogenic sound is dependent upon a number of contextual factors including, but not limited to, sound source frequencies, whether the sound source is moving towards the animal, hearing ranges of marine mammals, behavioral state at time of exposure, status of individual exposed (*e.g.,* reproductive status, age class, health) and an individual's experience with similar sound sources. Southall *et al.,* (2021), Ellison *et al.* (2012) and Moore and Barlow (2013), among others, emphasize the importance of context (*e.g.,* behavioral state of the animals, distance from the sound source) in evaluating behavioral responses of marine mammals to acoustic sources.

Marine mammals that occur in the project area could be exposed to in-air sound that has the potential to result in behavioral harassment of pinnipeds that are hauled out. Airborne sound at certain levels is expected to result in behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled out pinnipeds to exhibit changes in their normal behavior such as a change from resting state to an 'alert' posture or to flush from a haulout site into the water.

The results from studies of pinniped response to acoustic disturbance arising from launches and associated sonic booms at VSFB and NCI are highly variable (Holst *et al.,* 2005; Ugoretz and Greene Jr. 2012). Pinniped responses to rocket launches at the sites have been monitored for well over two decades. Monitoring data have consistently shown that the degree of pinniped reactions to sonic booms varies among species (table 4), with harbor seals typically showing the highest levels of disturbance, followed by California sea lions, and with northern elephant seals generally being much less responsive. Steller sea lions are only rarely observed in the project area and react to launch noise infrequently. Types of responses range from no response to heads-up alerts, from startle responses to some movements on land, and from some movements into the water to one instance of stampede.

TABLE 4—REPRESENTATIVE PINNIPED RESPONSES TO SONIC BOOMS AT SAN MIGUEL ISLAND, DOCUMENTED IN U.S. AIR FORCE LAUNCH MONITORING REPORTS

Launch event	Sonic boom level (psf)	Monitoring location	Species observed and responses
Athena II (April 27, 1999)	1	Adams Cove	California sea lion: 866 alerted; 232 (27 percent) flushed into water. Northern elephant seal: alerted but did not flush. Northern fur seal: alerted but did not flush.
Athena II (September 24, 1999)	0.95	Point Bennett	California sea lion: 12 of 600 (2 percent) flushed into water. Northern elephant seal: alerted but did not flush. Northern fur seal: alerted but did not flush.
Delta II 20 (November 20, 2000)	0.4	Point Bennett	California sea lion: 60 pups flushed into water; no reaction from focal group. Northern elephant seal: no reaction.

TABLE 4—REPRESENTATIVE PINNIPED RESPONSES TO SONIC BOOMS AT SAN MIGUEL ISLAND, DOCUMENTED IN U.S. AIR FORCE LAUNCH MONITORING REPORTS—Continued

Launch event	Sonic boom level (psf)	Monitoring location	Species observed and responses
Atlas II (September 8, 2001)	0.75	Cardwell Point	California sea lion (Group 1): no reaction (1,200 animals). California sea lion (Group 2): no reaction (247 animals). Northern elephant seal: no reaction. Harbor seal: 2 of 4 flushed into water.
Delta II (February 11, 2002)	0.64	Point Bennett	California sea lions and northern fur seals: no reaction among 485 animals in 3 groups. Northern elephant seal: no reaction among 424 animals in 2 groups.
Atlas II (December 2, 2003)	0.88	Point Bennett	California sea lion: approximately 40 percent alerted; several flushed to water (number unknown—night launch). Northern elephant seal: no reaction.
Delta II (July 15, 2004)	1.34	Adams Cove	California sea lion: 10 percent alerted (number unknown—night launch).
Atlas V (March 13, 2008)	1.24	Cardwell Point	Northern elephant seal: no reaction (109 pups).
Delta II (May 5, 2009)	0.76	West of Judith Rock	California sea lion: no reaction (784 animals).
Atlas V (April 14, 2011)	1.01	Cuyler Harbor	Northern elephant seal: no reaction (445 animals).
Atlas V (September 13, 2012)	2.10	Cardwell Point	California sea lion: no reaction (460 animals). Northern elephant seal: no reaction (68 animals). Harbor seal: 20 of 36 (56 percent) flushed into water.
Atlas V (April 3, 2014)	0.74	Cardwell Point	Harbor seal: 1 of ~25 flushed into water; no reaction from others.
Atlas V (December 12, 2014)	1.18	Point Bennett	California sea lion: 5 of ~225 alerted; none flushed.
Atlas V (October 8, 2015)	1.96	East Adams Cove of Point Bennett.	California sea lion: ~60 percent of CSL alerted and raised their heads. None flushed. Northern elephant seal: No visible response to sonic boom, none flushed. Northern fur seal: 60 percent alerted and raised their heads. None flushed.
Atlas V (March 1, 2017)	[a] ~0.8	Cuyler Harbor on San Miguel Island.	Northern elephant seal: 13 of 235 (6 percent) alerted; none flushed.

[a] Peak sonic boom at the monitoring site was ~2.2 psf, but was in infrasonic range—not audible to pinnipeds. Within the audible frequency spectrum, boom at monitoring site estimated at ~0.8 psf.

Post-launch monitoring of pinniped behavior shows that return to pre-launch numbers of animals and types of behaviors occurs within minutes or up to an hour or two after each launch event, regardless of species.

Responsiveness also varies with time of year and age class, with juvenile pinnipeds being more likely to react by entering the water and temporarily leaving the haulout site. The probability and type of behavioral response also depends on the season, the group composition, and the type of activity or behavior at the time of disturbance. For example, in some cases, harbor seals have been found to be more responsive during the pupping/breeding season (Holst *et al.,* 2005a; Holst *et al.,* 2008) while in other instances, lone individuals seem more prone to react than mothers and pups (Ugoretz and Greene Jr., 2012). California sea lions seem to be consistently less responsive during the pupping season (Holst *et al.,* 2010; Holst *et al.,* 2005a; Holst *et al.,* 2008; Holst *et al.,* 2011; Holst *et al.,* 2005b; Ugoretz and Greene Jr., 2012).

Pup abandonment could theoretically result in instances where adults flush into the water as a result of sound from an in-season launch. In its application, USSF cites one instance of a stampede on NCI that was triggered by launch noise in excess of that predicted to occur from USSF's proposed activity. No instances of pup abandonment are reflected in site-specific monitoring data. Given there is only one known instance of a stampede and no known pup abandonment, we find that abandonment is not likely to occur from future activities that create similar sound levels as those in the past. While reactions are variable, and can involve abrupt movements by some individuals, biological impacts of observed responses to launch activities and supporting operations appear to be limited in duration and consist of behavioral disruption including temporary abandonment of a haul out area.

Anticipated Effects on Marine Mammal Habitat

Habitat includes, but is not necessarily limited to, rookeries, mating grounds, feeding areas, and areas of similar significance. We do not anticipate that the proposed activities would result in any temporary or permanent effects on the habitats used by the marine mammals in the proposed area, including the food sources they use (*i.e.,* fish and invertebrates). Therefore, it is not expected that the specified activities would impact feeding success of pinnipeds.

While it is anticipated that the proposed activity may result in marine mammals avoiding certain haulout areas due to temporary ensonification of out-of-water habitat, this impact is temporary and reversible and was discussed earlier in this document, in the context of behavioral modification. No impacts are anticipated to accrue to prey species or to foraging areas and in-water habitat frequented by pinnipeds. The main impact associated with the proposed activity will be temporarily elevated in-air noise levels and the associated reaction of certain pinnipeds, previously discussed in this proposed rule.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed

for this rule, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to military readiness activities, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which: (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment). As stated above, a comparatively small portion of USSF's activities are considered military readiness activities. For military readiness activities, the MMPA defines ''harassment'' as: (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where the behavioral patterns are abandoned or significantly altered (Level B harassment). The take estimate methodology outlined below is considered appropriate for the quantification of take by Level B harassment based on either of the two definitions.

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to launch related visual or auditory stimulus. Based on the nature of the activity and as shown in activity-specific studies (described below), Level A harassment is neither anticipated nor proposed to be authorized. As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the proposed take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here (which include thresholds for take from launches and UAS, considered in combination with pinniped survey data in the form of daily counts) in more detail and present the proposed take estimates.

Acoustic Thresholds

For underwater sounds, NMFS recommends the use of acoustic thresholds that identify the received levels above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment). Thresholds have also been developed identifying the received level of in-air sound above which exposed pinnipeds would likely be behaviorally harassed. Here, thresholds for behavioral disturbance from launch activities have been developed based on observations of pinniped responses before, during, and after launches and UAS activity. For rocket and missile launches at VSFB, given the sound levels and proximity, NMFS assumes that all rocket launches will behaviorally harass pinnipeds of any species hauled out at sites around the periphery of the base. For rocket launches from VSFB that transit over or near NCI, based on several years of onsite behavioral observations and monitoring data, NMFS predicts that those that create a sonic boom over 2.0 psf could behaviorally harass pinnipeds of any species hauled out on NCI. For UAS activity NMFS predicts that, given the potential variability of locations, routing and altitudes necessary to meet mission needs, classes 0–3 could behaviorally harass pinnipeds of any species hauled out at VSFB.

Regarding potential hearing impairment, the effects of launch noise on pinniped hearing were the subject of studies at the site in the past. In addition to monitoring pinniped haul-out sites before, during and after launches, researchers were previously required to capture harbor seals at nearby haulouts and Point Conception to test their sensitivity to launch noises. Auditory Brainstem Response (ABR) tests were performed under 5-year SRPs starting in 1997. The goal was to determine whether launch noise affected the hearing of pinnipeds (MMCG and SAIC 2012a). The low frequency sounds from launches can be intense, with the potential of causing a temporary threshold shift (TTS), in which part or all of an animal's hearing range is temporarily diminished. In some cases, this diminishment can last from minutes to days before hearing returns to normal. None of the seals tested in these studies over a span of 15 years showed signs of TTS or PTS, supporting a finding that launch noise at the levels tested is unlikely to cause PTS and that any occurrence of TTS may be of short duration.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

Because the haulouts at NCI are more distant from the rocket launch sites than those at VSFB, different methods are used to predict when launches are likely to impact pinnipeds at the two sites. As stated above, for rocket and missile launches at VSFB, NMFS conservatively assumes that all rocket launches will behaviorally harass pinnipeds of any species hauled out at sites around the periphery of the base. For rocket launches from VSFB that transit over or near NCI, NMFS predicts that those that are projected to create a sonic boom over 2 psf could behaviorally harass pinnipeds of any species hauled out on NCI. For UAS activity, NMFS predicts that classes 0–3 could behaviorally harass pinnipeds of any species hauled out at VSFB.

The USSF is not able to predict the exact areas that will be impacted by noise associated with the specified activities, including sonic booms, launch noise and UAS operations. Many different types of launch vehicle types are operated from VSFB. Different combinations of vehicles and launch sites create different sound profiles, and dynamic environmental conditions also bear on sound transmission. As such, the different haul-out sites around the periphery of the base are ensonified to varying degrees when launches and, when applicable, recoveries of first stage boosters occur. USSF is not able to predict the exact timing, types and trajectories of these future rocket launch programs. However, as described below, rocket launches are expected to behaviorally disturb pinnipeds at VSFB and some launches are also expected to disturb pinniped hauled out at NCI. Missiles are only expected to impact pinnipeds at Lion Rock (Point Sal), and

UAS impacts are only expected to occur at Small Haulout 1 (in VSFB).

Therefore, for the purposes of estimating take, we conservatively estimate that all haulout sites at VSFB will be ensonified by rocket launch noise above the level expected to result in behavioral disturbance. Different space launch vehicles also have varying trajectories, which result in different sonic boom profiles, some of which are likely to affect areas on the NCI (San Miguel, Santa Rosa, Santa Cruz, and Anacapa). Based on several years of onsite monitoring data, harassment of marine mammals is unlikely to occur when the intensity of a sonic boom is below 2 psf. Santa Cruz and Anacapa Islands are not expected to be impacted by sonic booms in excess of 2 psf (USAF, 2018), therefore, USSF does not anticipate take of marine mammals on these islands, and NMFS concurs. Sonic booms from VSFB launches or recoveries can impact haul out areas and may take marine mammals on San Miguel Island and occasionally on Santa Rosa Island. In order to accommodate the variability of possible launches and (when applicable) sonic booms over NCI, USSF estimates that 25 percent of pinniped haulouts on San Miguel and Santa Rosa Islands may be ensonified to a level above 2 psf. NMFS concurs, and we consider this to be a conservative assumption based on sonic boom models which show that areas predicted to be impacted by a sonic boom with peak overpressures of 2 psf and above are typically limited to isolated parts of a single island, and sonic boom model results tend to overestimate actual recorded sonic booms on the NCI (personal communication: R. Evans, USSF, to J. Carduner, NMFS, OPR).

Modeling has not been required for launches of currently deployed missiles because of their trajectories west of VSFB and north of San Miguel Island and the previously well-documented acoustic properties of the missiles. The anticipated GBSD is expected to utilize approximately the same trajectories as the current ICBM, and the GBSD program will be required to model at least one representative launch. When missiles are launched in a generally western direction (they turn south several hundred miles from VSFB and at high altitude), there is no sonic boom impact on the NCI; thus take of pinnipeds on NCI is not anticipated from missile launches. Given flight characteristics and trajectories, take from missile launch is not anticipated for most species. However, given proximity and the generally western trajectory, noise from missile launches from North Base may take California sea lions that haul out at Lion Rock (Point Sal) near VSFB's northern boundary.

Marine Mammal Occurrence and Take Estimation

In this section, we bring together the information above and describe take from the three different activity types (rockets, missiles, and UAS) expected to occur at VSFB and NCI, the marine mammal occurrence data (based on two survey series specific to VSFB and NCI), species and location-specific data related the likelihood of either exposure (*e.g.,* tidal differences) or response (*e.g.,* proportion of previously recorded responses that qualify as take), and the amount of activity. We describe the calculations used to arrive at the take estimates for each activity, species, and location, and present the total estimated take in table 14.

NMFS uses a three-tiered scale to determine whether the response of a pinniped on land to stimuli is indicative of Level B harassment under the MMPA (table 5). NMFS considers the behaviors that meet the definitions of both movements and flushes in table 5 to qualify as behavioral harassment. Thus a pinniped on land is considered by NMFS to have been behaviorally harassed if it moves greater than two times its body length, or if the animal is already moving and changes direction and/or speed, or if the animal flushes from land into the water. Animals that become alert or stir without other movements indicative of disturbance are not considered harassed. Prior observations of pinniped responses to certain exposures may be used to predict future responses and assist in estimating take. Here, the levels of observed responses of particular species during monitoring are used to inform take estimate correction factors as described in the species and activity-specific sections below.

TABLE 5—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE ON LAND

Level	Type of response	Definition	Characterized as behavioral harassment by NMFS
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.	No.
2	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.	Yes.
3	Flush	All retreats (flushes) to the water	Yes.

Data collected from marine mammal surveys including monthly marine mammal surveys and launch-specific monitoring conducted by the USSF at VSFB, and observations collected by NMFS at NCI, represent the best available information on the occurrence of the six pinniped species expected to occur in the project area. Monthly marine mammal surveys at VSFB are conducted to document the abundance, distribution and status of pinnipeds at VSFB. When possible, these surveys are timed to coincide with the lowest afternoon tides of each month, when the greatest numbers of animals are usually hauled out. Data gathered during monthly surveys include: species, number, general behavior, presence of pups, age class, gender, reactions to natural or human-caused disturbances, and environmental conditions. Some species are observed regularly at VSFB and the NCI (*e.g.,* California sea lion), while other species are observed less frequently (*e.g.,* northern fur seals and Guadalupe fur seals).

Take estimates were calculated separately for each stock in each year the proposed regulations would be valid

(from 2024 to 2029), on both VAFB and the NCI, based on the number of animals assumed hauled out at each location that are expected to be behaviorally harassed by the stimuli associated with the specified activities (*i.e.,* launch, sonic boom, or UAS noise). First, the number of hauled out animals per month was estimated at both VAFB and the NCI for each stock, based on survey data and subject matter expert input. Second, we estimated the percentage of animals that would be taken by harassment from a launch at a given site, using the corrections and adjustments. In order to determine that percentage, we considered whether certain factors could result in fewer than the total estimated number at a location being harassed. These factors include whether the extent of ensonification is expected to affect only a portion of the animals in an area, tidal inundation that displaces animals from affected areas and for species reactivity to launch noise, life history patterns and, where appropriate, seasonal dispersal patterns.

Launches covered in this authorization are not expected to produce a sonic boom over the mainland except that some first stage recoveries back to launch facilities on the base that may do so. Because first stage recoveries always occur within ten minutes of the initial launch, a response from any given animal to both launch and recovery are considered to be one instance of take, even when both launch and recovery meet or exceed the 2 psf threshold for calculating take.

Vandenberg Space Force Base

As described above, rocket launches, missile launches, and UAS activities are expected to result in take of pinnipeds on VSFB at haul outs along the periphery of the base. Because the supporting information and/or methods are different for these three activity types, we describe them separately below. Launches from different launch facilities at VSFB create different degrees of ensonification at specific haul out sites, and further, USSF has limited ability to forecast which launch sites may be used for future launches. As described previously, some launches also involve the recovery of a booster component back to the launch site, or to an alternate offshore location.

As noted above, NMFS first estimated the number of hauled out animals per month at VAFB for each stock. NMFS used marine mammal counts collected by USSF during monthly marine mammal surveys to approximate haulout abundance. NMFS compared monthly counts for a given species from 2020 to 2022 and selected the highest count (sum across all haul out sites) for each month for each species, as indicated in table 6. NMFS then selected the highest monthly count for each species and used that as the estimated number of animals that would be hauled out at any given time during a launch. Because launches from different SLCs impact different haul-outs, we expect that using this highest monthly estimate will result in a conservative take estimate. Therefore, NMFS considers the 2020–2022 survey data relied upon to be the best data available.

As further indicated in the table 7, and described below, the predicted number of animals taken by each launch, by species, is adjusted as indicated to account for the fact that (1) for some species, animals are only hauled out and available to be taken during low tide and (2) years of monitoring reports showing that different species respond behaviorally to launches in a different manner.

TABLE 6—VSFB MAX COUNTS FROM MONTHLY SURVEYS, 2020–2022

Month	Pacific harbor seal	California sea lion	Steller sea lion	Northern elephant seal
Jan	61	11	None in USSF record 2020–2022	76
Feb	73	9	0	63
Mar	105	0	0	50
Apr	87	3	0	173
May	95	*112	0	*302
Jun	*149	72	0	78
Jul	61	26	0	20
Aug	60	1	0	11
Sept	54	16	0	82
Oct	59	2	0	228
Nov	65	28	0	251
Dec	51	16	0	122
			USSF Estimated Max: *5	

Note: * indicates the highest monthly count for a given species.

Rocket Launches at VSFB

USSF assumes that all rocket launches would take, by Level B harassment, animals hauled out at sites around the periphery of the base. Some rocket launches create overpressure at time of launch, and some recoveries of first-stage boosters can create a sonic boom when they return to the launch pad. Some flights also transit over or near portions of the NCI, but potential impacts to marine mammals at the NCI are discussed separately, below. Table 8 lists the proposed take by Level B harassment from rocket launch and recovery activities at VSFB, and below, we describe how NMFS estimated take for each species. Note that northern fur seal and Guadalupe fur seal are not anticipated to occur at VSFB, and therefore, NMFS does not anticipate impacts to these species at VSFB.

Harbor Seals

Pacific harbor seals haul out regularly at more than ten sites on both north and south VSFB. They are the most widespread pinniped species on VSFB and have been seen in all months, with decades of successful pupping. Rocket launches from sites closer to the haulouts are more likely to cause disturbance, including noise and visual impacts. Many of their haulout sites are inundated during high tide, and NMFS anticipates that take of this species would only occur during low tides. Rocket launches from sites closer to the haulouts are more likely to cause disturbance, including noise and visual impacts. However, to capture variability, we assume that all rocket launches result in Level B harassment of 100 percent of the harbor seals at all VSFB haulouts.

To determine the number of animals that would be taken by Level B harassment, we multiplied the max

count indicated in table 6 by the number of proposed launches per year (table 8) for each year of the proposed authorization. As noted in table 6, monitoring data show that, generally speaking, most if not all harbor seals exposed to launch noise exhibit a behavioral response to launch stimulus that equates to take by Level B harassment and, therefore, we predict that 100 percent of animals exposed to launch noise will be taken per launch. However, given that most haulout sites at VSFB are inundated at high tide, NMFS applied a 50 percent correction factor (table 7). Therefore, estimated takes = max daily count (149) X tidal correction factor (0.5) X number of rocket launches in the area for each year for each year (40 in year 1, *etc.*), and the resulting take numbers NMFS proposes to authorize are listed in table 8.

California Sea Lion

California sea lions on VSFB only haul out regularly at Rocky Point (north and south) and Amphitheatre Cove. California sea lions are most abundant at the haul out in Zone G at Lion Rock (Point Sal). Rocket launches from SLC–6, SLC–8, and the future SLC–11, which are closest to North Rocky Point, would be the most likely to result in noise and visual impacts. Rocket launches from SLC–3E and SLC–4E, both farther inland and some four times the distance, are less likely to impact California sea lions at North Rocky Point. During very high tides and strong winds, when spray is heavy, the sea lions often leave this site or are unable to access it. Therefore, NMFS assumes that for any given rocket launch at VSFB, 50 percent of the maximum number of California sea lions that haul out at VSFB may be taken by Level B harassment.

To determine the number of animals that would be taken by Level B harassment, we multiplied the max count indicated in table 6 by the number of proposed launches per year (table 8) for each year of the proposed authorization. As noted in table 6, monitoring data show that, generally speaking, most if not all California sea lions hauled out at VSFB would exhibit a behavioral response to launch stimulus that equates to take by Level B harassment and, therefore, we predict that 100 percent of animals exposed to launch noise will be taken per launch. However, given that most haulout sites at VSFB are inundated at high tide, NMFS applied a 50 percent correction factor (table 7). Therefore, the number of estimated takes = max daily count (112) × tidal correction factor (0.5) × number of rocket launches in the area (40 in year 1, *etc.*), and the resulting take numbers NMFS proposes to authorize are listed in table 8.

Northern Elephant Seal

Northern elephant seals historically hauled out at VSFB only rarely, and most animals observed onsite were subadult males. In 2004, a record count of 188 animals was made, mostly newly weaned seals (MMCG and SAIC 2012a); these numbers continued to increase (unpublished data, however reported annually to NMFS). In November 2016, mature adults were observed in Amphitheatre Cove, and pupping was first documented in January 2017 with 18 pups born and weaned. In January 2018, a total of 25 pups were born and weaned; 26 in 2019, 34 in 2020, 33 in 2021 and 49 in 2022. Two pups were born and weaned at Boathouse Beach in both 2021 and 2022. We assume that this site, in addition to Amphitheater, will support pupping in future years. Pupping occurs from December through March, with peak breeding in mid-February.

To determine the number of animals that would be taken by Level B harassment, we multiplied the max count indicated in table 6 by the number of proposed launches per year (table 8) for each year of the proposed authorization. As noted in table 6, given elephant seals' known lack of sensitivity to noise, based on VSFB monitoring reports and the literature, NMFS predicts that only 15 percent of elephant seals exposed to the launch noise would respond in a manner that constitutes take by Level B harassment, and, therefore, a 15 percent correction factor was applied. We also note that, unlike for harbor seals and California sea lions, Northern elephant seal presence and numbers are not affected by tides. Therefore, the number of estimated takes = highest daily count (302) × behavioral harassment correction factor (0.15) × number of rocket launches in the area for each year (40 in year 1, *etc.*), and the resulting take numbers NMFS proposes to authorize are listed in table 8.

Steller Sea Lion

Steller sea lions have been observed at VSFB since April 2012 (MMCG and SAIC 2012c), though as indicated in table 6, they were not observed between 2020 and 2022. For purposes of estimating take, USSF estimates that up to five Steller sea lions may haul out at VSFB during any given launch. NMFS multiplied this number by the number of proposed launches per year for each year of the proposed authorization (Table 8). NMFS assumes that all rocket launches result in behavioral disturbance (*i.e.,* Level B harassment) of 100 percent of the Steller sea lions hauled out at VSFB. Therefore, the number of estimated takes = 5 animals × number of rocket launches in the area (40 in year 1, *etc.*), and the resulting take numbers NMFS proposes to authorize are listed in table 8.

TABLE 7—CORRECTIONS AND ADJUSTMENTS BY STOCK AT VSFB [1] [2]

Stock	VSFB, tidal inundation correction (percent)	VSFB, behavioral disturbance correction (percent)
Harbor seal (California)	50	100
California sea lion (California)	50	100
Northern elephant seal (CA Breeding)	N/A	15
Steller sea lion (eastern)	N/A	100

[1] Northern elephant seals and Steller sea lion takes are adjusted to reflect observed species-specific reactivity to launch stimulus.
[2] "N/A" indicates that no tidal adjustment was made.

TABLE 8—PROPOSED ANNUAL AND 5-YEAR INSTANCES OF INCIDENTAL TAKE FROM ROCKET LAUNCH AND RECOVERY ACTIVITIES AT VSFB

	2024	2025	2026	2027	2028	5-year total estimated takes
Number of Rocket Launches	40	55	75	100	110	
Pacific harbor seal (CA)	2,980	4,098	5,588	7,450	8,195	28,310
California sea lion (U.S.)	2,240	3,080	4,200	5,600	6,160	21,280
Northern elephant seal (CA breeding)	1,812	2,492	3,398	4,530	4,983	17,214
Steller sea lion (Eastern)	200	275	375	500	550	1,900

UAS at VSFB

As stated in the Description of Proposed Activity section, while harassment of hauled out pinnipeds from UAS classes 0–2 is unlikely to occur at altitudes of 200 ft and above (Erbe *et al.,* 2017; Pomeroy *et al.,* 2015; Sweeney *et al.,* 2016; Sweeney and Gelatt, 2017), USSF conservatively assumes that UAS classes 0–3 operations would take, by Level B harassment, some animals hauled out at Small Haul-Out 1 at VSFB. Aircraft are required to maintain a 1000-ft buffer around pinniped haul-out and rookery areas except in emergency circumstances, such as Search and Rescue. However, Small Haul-Out 1, has a reduced 500-ft buffer because pinnipeds using this particular site have acclimated to the activity. Therefore, a small number of takes by Level B harassment may result from UAS activity at Small Haul-Out 1, only. Table 9 lists the proposed take by Level B harassment at VSFB from UAS activities, and below, we describe how NMFS estimated take for each species. Note that northern fur seal and Guadalupe fur seal are not anticipated to occur at VSFB, and therefore, NMFS does not anticipate impacts to these species at VSFB. While Northern elephant seals have been observed on nearby beaches, only Pacific harbor seals and California sea lions are known to use Small Haul-Out 1, and therefore, these are the only species anticipated to be taken by UAS activities.

Pacific Harbor Seal

Pacific harbor seals are the most common species at Small Haul-Out 1. USSF estimates that up to six harbor seals may be taken by Level B harassment at Small Haul-Out 1 during any given UAS activity, based upon previous monitoring data at Small Haul-Out site 1. NMFS concurs, and multiplied this number by the number of proposed UAS class 0–3 activities per year (100). Therefore, the number of estimated takes per year = 6 animals × 100 UAS activities, and the resultingtake numbers NMFS proposes to authorize are listed in table 9.

California Sea Lion

California sea lions haul out at Small Haul-Out 1, though they are less abundant than Pacific harbor seal at that site. USSF estimates that up to 1 California sea lion may be taken by Level B harassment at Small Haul-Out 1 during any given UAS activity, based upon previous monitoring data at Small Haul-Out site 1. NMFS concurs, and multiplied this number by the number of proposed UAS class 0–3 activities per year (100). Therefore, the number of estimated takes per year = 1 animal X 100 UAS activities, and the resulting take numbers NMFS proposes to authorize are listed in table 9.

TABLE 9—TAKE BY LEVEL B HARASSMENT OF PINNIPEDS FROM UAS ACTIVITY

Species	Annual take by Level B harassment	5-year total take by Level B harassment
Pacific harbor seal	600	3,000
California sea lion	100	500

Missiles at VSFB

USSF oversees missile launches from seven locations on VSFB. The launches occur on a routine basis up to 15 times per year. In addition to originating from different locations than rockets, missile trajectories are also different. All missile launches tend in north-westerly direction, and missiles in flight transition to a near-horizontal profile shortly after launch. USSF's application describes that missile launches are not anticipated to result in take of pinnipeds at south VSFB, as they do not create a ''boom.'' However, USSF anticipates, and NMFS concurs, that missile launches from sites in North Base could take California sea lions at Lion Rock (Point Sal), an off-base location. Lion Rock (Point Sal) is the only site at which USSF anticipates that take of pinnipeds may occur during missile activities, and NMFS concurs. Lowry *et al.* (2021) provides marine mammal occurrence data at Lion Rock (Point Sal) for July 2016 and July 2017. While NMFS used more recent data (2020 to 2022) to estimate take of pinnipeds during rocket launch and UAS activities (described above), those surveys did not include Lion Rock (Point Sal), and therefore, NMFS has relied on the Lowry *et al.* (2021) data for missile launch impacts.

For purposes of estimating take, NMFS conservatively estimates that up to 518 California sea lions may haul out at Lion Rock (Point Sal) during any given missile launch. This is the higher count of California sea lions at the site from 2016 (Lowry *et al.* 2021). NMFS multiplied this number by the number of proposed launches per year (15 launches). NMFS conservatively assumes that all California sea lions at the site would be taken by Level B harassment during any given missile launch, though it is relatively unlikely that all 15 launches would fly close enough to this site to cause Level B harassment. Therefore, the number of estimated takes = 518 animals × number of rocket launches in the area in a given year (15), and NMFS proposes to authorize 7,770 takes by Level B harassment of California sea lion annually (38,850 over the duration of the proposed authorization) from

missile launches at VSFB, as indicated in table 10.

TABLE 10—PROPOSED INSTANCES OF INCIDENTAL TAKE FROM MISSILE LAUNCHES (MILITARY READINESS ACTIVITY) AT VSFB

Species	Location	High count	Launches/year	Annual takes	5-year total takes [1]
California sea lion	Lion Rock, Point Sal	518 (2019)	15	7,770	38,850

[1] Annual take * 5 years.

NCI

While USSF does not propose launching rockets from NCI, as noted previously, a subset of VSFB rocket launches transit over or near NCI, and a subset of those may create a sonic boom that affects some portion of pinniped haulouts on NCI (San Miguel and Santa Rosa). No take of pinnipeds on NCI is expected to result from missile launches or UAS activities. To estimate take of marine mammals at NCI resulting from rocket launches at VSFB, NMFS first estimated the number of hauled out animals per species across all potentially affected haulouts on San Miguel and Santa Rosa Islands. NMFS selected the high count from San Miguel and Santa Rosa Islands between 2017 and 2019 (NOAA Technical Memorandum SWFSC–656 (Lowry *et al.,* 2021) and summed the high counts from each site (table 11). NMFS then applied a correction factor to this estimate to account for whether a given species is expected to be hauled out in the area during all or a portion of the year (table 12). This is referred to as Step 1 below.

Next, NMFS determined the approximate number of sonic booms over 2 psf anticipated to occur over the NCI (28 over 5 years, as reflected in USSF's application). USSF's application indicates that during previous monitoring of pinnipeds on NCI during rocket launches, few to no behavioral reactions that would qualify as Level B harassment using the the 3-point scale (table 5) were observed during sonic booms of less than 2 psf. Therefore, in estimating take herein, NMFS assumes that take of marine mammals will only occur during sonic booms of 2 psf or greater. Summarizing 20 years of sonic boom modeling (MMCG and SAIC, 2012a), we anticipate that no more than 25 percent of space launches will produce a sonic boom greater than 2 psf over the NCI (estimated to be 28 launches over 5 years). On one occasion, pinnipeds on one side of San Miguel Island, reacted to a boom, while animals four miles away on the other did not react, nor was the boom detected there by acoustic instruments (MMCG and SAIC, 2012a). Therefore, NMFS multiplied the number of annual booms (table 13) by a 0.25 correction factor for all species and rounded each year up to the next whole number. This is referred to as step 2 below.

Next, NMFS multiplied the number of animals anticipated to be at a haulout during a launch (calculated in step 1) by the number of annual launches anticipated to affect animals at the haulouts (calculated in step 2), and then multiplied the product by the likelihood of a given species responding in a manner that would be considered take by Level B harassment (table 13). NMFS describes the calculations in further detail for each species, below.

TABLE 11—NCI, HIGH COUNT 2017–2019 FROM SWFSC–656

[Lowry *et al.* (2021)]

	2017	2019	High count from 2017 and 2019
Pacific harbor seal:			
San Miguel	230	254	254 (2019)
Santa Rosa	266	148	266 (2017)
Sum			520
California sea lion:			
San Miguel	49,252	60,277	60,277 (2019)
Santa Rosa	2,692	1,618	2,692 (2017)
Sum			62,969
Northern elephant seal:			
San Miguel	2,327	2,791	2,791 (2019)
Santa Rosa	1,169	1,015	1,169 (2017)
Sum			3,960
Northern fur seal:			
San Miguel	4,520	4,377	4,520 (2017)
Santa Rosa	N/R	N/R	N/R
Sum			4,520
Guadalupe fur seal:			
San Miguel	N/R	N/R	N/R
Santa Rosa	N/R	N/R	N/R
Sum			N/R
Steller sea lion:			

TABLE 11—NCI, HIGH COUNT 2017–2019 FROM SWFSC–656—Continued

[Lowry *et al.* (2021)]

	2017	2019	High count from 2017 and 2019
San Miguel	N/R	N/R	N/R
Santa Rosa	N/R	N/R	N/R
Sum	.....	.....	5

Note: N/R: No sightings recorded.

Harbor Seals

For harbor seal, the sum of the high counts at the San Miguel and Santa Rosa haulouts during 2017 and 2019 is 520. NMFS expects Pacific harbor seals to occur at the haulouts year round, and therefore did not apply a correction for seasonal occurrence. NMFS multiplied the harbor seal haulout abundance (520) by the number of booms anticipated to overlap the haulouts (table 13, calculated in step 2 above). Based on years of monitoring reports showing the responses of harbor seals at NCI (which is farther from the launch sites than the VSFB sites) to launches, NMFS anticipates that 50 percent of harbor seals exposed to a sonic boom overlapping a haulout will be taken by Level B harassment. Therefore, for each year, the number of estimated takes = 520 animals × number of sonic booms over 2 psf × 0.5, and the resulting take numbers NMFS proposes to authorize are listed in table 13.

California Sea Lions

For California sea lion, the sum of the high counts at the San Miguel and Santa Rosa haulouts during 2017 and 2019 is 62,969. While some California sea lions remain in the general vicinity of southern California throughout the year and may haul out onshore, the use of haulout sites at NCI is principally for breeding during peak summer months. Given the fact that most male sea lions and a substantial portion of all sea lions are not onshore at NCI outside of the breeding season, we applied a 50 percent correction factor to better relate instances of take to the number of individuals that may be hauled out and subject to acoustic effects of launches. NMFS multiplied the California sea lion haulout abundance (62,969) by the number of booms anticipated to overlap the haulouts (Table 13, calculated in Step 2 above). Based on years of monitoring reports showing the responses of California sea lions at NCI to launches, NMFS anticipates that 25 percent of California sea lions exposed to a sonic boom overlapping a haulout will be taken by Level B harassment. Therefore, for each year, the number of estimated takes = 62,969 animals × number of sonic booms over 2 psf × 0.25, and the resulting take numbers NMFS proposes to authorize are listed in table 13.

Northern Elephant Seals

For Northern elephant seal, the sum of the high counts at the San Miguel and Santa Rosa haulouts during 2017 and 2019 is 3,960. NMFS expects Northern elephant seals to occur at the haulouts year round, and therefore did not apply a correction for seasonal occurrence. NMFS multiplied the Northern elephant seal haulout abundance (3,960) by the number of booms anticipated to overlap the haulouts (table 13, calculated in step 2 above). Based on years of monitoring reports showing the responses of Northern elephant seals at NCI to launches, NMFS anticipates that 5 percent of Northern elephant seals exposed to a sonic boom overlapping a haulout will be taken by Level B harassment. Therefore, for each year, the number of estimated takes = 3,960 animals × number of sonic booms over 2.0 psf × 0.05, and the resulting take numbers NMFS proposes to authorize are listed in table 13.

Northern Fur Seal

For Northern fur seal, the sum of the high counts at the San Miguel and Santa Rosa haulouts during 2017 and 2019 is 4,377. Northern fur seals spend approximately 80 percent of the year at sea, generally well offshore (Carretta *et al.,* 2011; Caretta *et al.,* 2012). To account for that seasonal occurrence, NMFS applied a conservative seasonal correction factor of 60 percent. NMFS multiplied the Northern fur seal haulout abundance (4,377) by the number of booms anticipated to overlap the haulouts (table 13, calculated in step 2 above). Based on years of monitoring reports showing the responses of Northern fur seals at NCI to launches, NMFS anticipates that 5 percent of Northern fur seals exposed to a sonic boom overlapping a haulout will be taken by Level B harassment. Therefore, for each year, the number of estimated takes = 4,377 animals × number of sonic booms over 2 psf × 0.05, and the resulting take numbers NMFS proposes to authorize are listed in table 13.

Guadalupe Fur Seal

For Guadalupe fur seal, the sum of the high counts at the San Miguel and Santa Rosa haulouts during 2017 and 2019 is 5. NMFS estimates the potential for Guadalupe fur seals to occur at the haulouts to be comparable throughout the year and, therefore, did not apply a correction for seasonal occurrence. NMFS multiplied the Guadalupe fur seal haulout abundance (5) by the number of booms anticipated to overlap the haulouts (table 13, calculated in step 2 above). Based on years of monitoring reports showing the responses of Guadalupe fur seals at NCI to launches, NMFS anticipates that 50 percent of Guadalupe fur seals exposed to a sonic boom overlapping a haulout will be taken by Level B harassment. Therefore, for each year, the number of estimated takes = 5 animals × number of sonic booms over 2 psf × 0.5, and the resulting take numbers NMFS proposes to authorize are listed in table 13.

TABLE 12—CORRECTIONS AND ADJUSTMENTS BY STOCK AT NCI [1] [2]

Species	Species response to sonic boom (percent)	Seasonal occurrence (percent of year)
Harbor seal	50	100
California sea lion	25	50
Northern elephant seal	5	100
Northern fur seal	25	[3] 60
Guadalupe fur seal	50	[4] N/A

[1] Northern elephant seals and Steller sea lion takes are adjusted to reflect observed species-specific reactivity to launch stimulus.
[2] "N/A" indicates that a species is not expected to occur at the location.
[3] Of note, from November to May, there are approximately 125 individuals at the NCI (S. Melin, 2019), further supporting a seasonal correction factor.
[4] Guadalupe fur seal are generally not expected to occur on the NCI. However, as described herein, given that they have occasionally been sighted on the NCI, NMFS is conservatively proposing to authorize take of Guadalupe fur seal as described herein.

TABLE 13—PROPOSED TAKE BY LEVEL B HARASSMENT AT NCI

[San Miguel and Santa Rosa]

	2024	2025	2026	2027	2028	5-year total take
Maximum number of sonic booms	5	12	24	30	33	.....
Maximum number of sonic booms over 2.0 psf	2	3	6	8	9	.....
Pacific harbor seal	520	780	1,560	2,080	2,340	7,280
California sea lion	15,742	23,613	47,227	62,969	70,840	220,392
Northern elephant seal	396	594	2,970	3,960	4,455	12,375
Northern fur seal	1,313	1,970	3,939	5,252	5,909	18,383
Guadalupe fur seal	5	8	15	20	23	70

Total Proposed Take

Table 14 sums the take estimates described above for VSFB (rocket launches, missile launches, and UAS) and NCI (rocket launches only). These takes represent the number of instances of harassment of pinnipeds following exposure to the indicated activities. However, every take does not necessarily, and in this case is not expected to, represent a separate individual. Rather, given the known repeated use of haulouts by pinnipeds of all species, it is reasonable to expect that some subset of the calculated takes represent repeated takes of the same individuals, which means that the number of individuals taken is expected to be significantly smaller than the number of instances of take.

TABLE 14—TOTAL ESTIMATED ANNUAL AND 5-YEAR TAKE [1] PROPOSED FOR AUTHORIZATION

Stock	2024	2025	2026	2027	2028	Highest 1-year take estimated	Stock abundance	Highest annual instances of take as percent of stock abundance
Pacific harbor seal	4,100	5,478	7,748	10,130	11,135	11,135	30,968	36
California sea lion	25,852	34,563	59,297	76,439	84,870	84,870	257,606	33
Northern elephant seal	2,208	3,086	6,368	8,490	9,438	9,438	187,386	5
Steller sea lion	200	275	375	500	550	550	43,201	1
Northern fur seal	1,313	1,970	3,939	5,252	5,909	5,909	14,050	42
Guadalupe fur seal	5	8	15	20	23	23	34,187	0

[1] Given the known repeated use of haulouts by pinnipeds of all species, it is reasonable to expect that some subset of the calculated takes represent repeated takes of the same individuals, which means that the number of individuals taken is expected to be significantly smaller than the number of instances of take.

Proposed Mitigation

In order to issue regulations and an LOA under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)). The NDAA for Fiscal Year 2004 amended the MMPA as it relates to military readiness activities and the incidental take authorization process such that ''least practicable impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is

expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Below, we describe the proposed mitigation measures for launches (rocket and missile), manned aircraft, and UAS.

Launches (Rocket and Missile)

USSF must provide pupping information to launch proponents at the earliest possible stage in the launch planning process to maximize their ability to schedule launches to minimize pinniped disturbance during pupping seasons on VSFB from 1 March to 30 April and on the Northern Channel Islands from 1 June–31 July. If practicable, rocket launches predicted to produce a sonic boom on the Northern Channel Islands >3 psf from 1 June–31 July will be scheduled to coincide with tides in excess of +1.0 ft, with an objective to do so at least 50 percent of the time. USSF will provide a detailed plan to NMFS for approval that outlines how this measure will be implemented. This measure will minimize occurrence of launches during low tides when harbor seals and California sea lions are anticipated to haul out in the greatest numbers during times of year when pupping may be occurring, therefore further reducing the already unlikely potential for separation of mothers from pups and potential for injury during stampedes. While harbor seal pupping extends through June, harbor seals reach full size at approximately two months old, at which point they are less vulnerable to disturbances. In consideration of that and practicability concerns raised by USSF, this measure does not extend through the later portion of the harbor seal pupping season at VSFB.

Manned Aircraft

For manned flight operations, aircraft must use approved routes for testing and evaluation. Manned aircraft must also remain outside of a 1,000-ft buffer around pinniped rookeries and haul-out sites (except in emergencies such as law enforcement response or Search and Rescue operations, and with a reduced, 500-ft buffer at Small Haul-out 1). As discussed earlier, use of these routes and implementation of the buffer would avoid behavioral disturbance of marine mammals from manned aircraft operations.

UAS

UAS classes 0–2 must maintain a minimum altitude of 300 ft over all known marine mammal haulouts when marine mammals are present, except at take-off and landing. Class 3 must maintain a minimum altitude of 500 ft, except at take-off and landing. UAS classes 4 and 5 only operate from the VSFB airfield and must maintain a minimum altitude of 1,000 ft over marine mammal haulouts except at take-off and landing. USSF must not fly class 4 or 5 UAS below 1,000 ft over haulouts.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

The USSF has proposed a suite of monitoring measures on both VSFB and the NCI to document impacts of the specified activities on marine mammals. These proposed monitoring measures include both routine, semi-monthly counts at all haul out sites on VSFB, and launch-specific monitoring at VSFB and/or NCI when specific criteria are met. For monitoring at VSFB and NCI, monitoring must be conducted by at least one NMFS-approved PSO trained in marine mammal science. PSOs must have demonstrated proficiency in the identification of all age and sex classes of both common and uncommon pinniped species found at VSFB and the NCI. They must be knowledgeable of approved count methodology and have experience in observing pinniped behavior, especially that due to human disturbances, to document pinniped activity at the monitoring site(s) and to record marine mammal response to base operations. In the event that the requirement for PSO monitoring cannot be met (such as when access is prohibited due to safety concerns), daylight or night-time video monitoring may be used in lieu of PSO monitoring. Specific requirements for monitoring locations at VSFB and NCI respectively, are described in additional detail below.

Rocket Launch Monitoring at VSFB

At VSFB, USSF must conduct marine mammal monitoring and take acoustic measurements for all new rockets (for both existing and new launch proponents using the existing facilities) that are larger or louder than those that

have been previously launched from VSFB during their first three launches, and for the first three launches from any new facilities during March through July (*i.e.,* the period during which harbor seals are pupping occurs and California sea lions are present).

For the purposes of establishing monitoring criteria for VSFB haulouts, computer software is used to model sound pressure levels anticipated to occur for a given launch and/or recovery. Sonic boom modeling will be performed prior to the first three small or medium rocket launches from new launch proponents or at new launch facilities, and all heavy or super-heavy rocket launches. PCBoom, a commercially available modeling program, or an acceptable substitute, will be used to model sonic booms from new vehicles.

Launch parameters specific to each launch will be incorporated into each model run, including: launch direction and trajectory, rocket weight, length, engine thrust, engine plume drag, and launch profile (vehicle position versus time from launch to first-stage burnout), among other aspects. Various weather scenarios will be analyzed from NOAA weather records for the region, then run through the model. Among other factors, these will include the presence or absence of the jet stream, and if present, its direction, altitude and velocity. The type, altitude, and density of clouds will also be considered. From these data, the models will predict peak amplitudes and impacted locations. As described below, this approach is also used to assess whether thresholds (Table 16) for marine mammal monitoring on NCI could be exceeded or not, and whether marine mammal monitoring will be necessary for animals hauled out at NCI.

In general, on both VSFB and NCI, event-specific monitoring typically involves four to six observations of each significant haul-out area each day, over a period of 3 to 5 hours. For launches that occur during the harbor seal pupping season (March 1 through June 30) or when higher numbers of California sea lions are present (June 1 through July 31), monitoring will be conducted by at least one NMFS-approved protected species observer (PSO) trained in marine mammal science. Authorized PSOs shall have demonstrated proficiency in the identification of all age and sex classes of all marine mammal species that occur at VSFB. They shall be knowledgeable of approved count methodology and have experience in observing pinniped behavior, especially that due to human disturbances.

When launch monitoring is required, monitoring will begin at least 72 hours prior to the launch and continue through at least 48 hours after the launch. For launches within the harbor seal pupping season, a two-week follow-up pup survey will be required to ensure that there were no adverse effects to pups. During daylight monitoring, time-lapse video recordings will be made to capture the reactions of pinnipeds to each launch, and during nighttime monitoring, USSF will employ night video monitoring, when feasible. Monitoring will include multiple surveys each day. When possible, PSOs will record: species, number, general behavior, presence of pups, age class, gender, and reaction to launch noise, or to natural or other human-caused disturbances. They will also record environmental conditions, including visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction.

NCI Launch Monitoring

USSF will conduct marine mammal monitoring and take acoustic measurements at the NCI if the sonic boom model indicates that pressures from a boom will reach or exceed the psf level detailed in table 15 during the indicated date range. These dates were determined to be appropriate to account for sensitive seasons, primarily pupping, for the various pinniped species.

TABLE 15—PROPOSED NCI SONIC BOOM LEVEL REQUIRING MONITORING, BY DATE

Dates	Sonic boom level
1 March–31 July	>5 psf.
1 August–30 September	>7 psf.
1 October–28 February	no monitoring.

USSF will use specialized acoustic instruments to record sonic booms generated by launches from VSFB and resulting overflights or recoveries predicted to affect NCI haul out sites. VSFB will analyze the recordings to determine the intensity, duration, and frequency of sonic booms and resulting marine mammal responses in order to compare monitoring results with levels considered potentially harmful to marine mammals. The analysis can also be used to validate the efficacy of the model.

Monitoring locations on NCI will be selected based upon the model results, prioritizing a significant haulout site on one of the islands where the maximum sound pressures are expected to occur. Currently, monitoring the reactions of northern fur seals and Pacific harbor seals to sonic booms is of a higher priority than monitoring of California sea lions and northern elephant seals, for which more data is currently available (Table 8). Monitoring the reactions of mother-pup pairs of any species is also a high priority.

Considering the large numbers of pinnipeds (sometimes thousands) that occur on some NCI beaches, while estimates of the entire beach population will be made and their reactions to the launch noise noted, more focused and detailed monitoring will be conducted on a smaller subset or focal group. Photos and/or video recordings will be collected for daylight launches when feasible, and if the launch occurs in darkness night vision equipment will be used. Potential impediments to effective use of photographic and video equipment include periods of reduced visibility, terrain that obscures animals from view from one observation point, severe glare and fog that can occur, and/or other factors.

Monitoring will be conducted by at least one NMFS-approved PSO who is trained in marine mammal science. Another person will accompany the monitor for safety reasons. Monitoring will commence at least 72 hours prior to the launch, during the launch and at least 48 hours after the launch, unless no sonic boom is detected by the monitors and/or by the acoustic recording equipment, at which time monitoring would be stopped. If the launch occurs in darkness, night vision equipment will be used. Monitoring for each launch will include multiple surveys each day that record, when possible: species, number, general behavior, presence of pups, age class, gender, and reaction to sonic booms or natural or human-caused disturbances. Photos and/or video recordings will be taken when feasible. Environmental conditions will also be recorded, including visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction.

USSF will continue to test equipment and emerging technologies, including but not limited to night vision cameras, newer models of remote video cameras and other means of remote monitoring at both VSFB and on the NCI. UAS-based or space-based technologies that may become available will be evaluated for suitability and practicability, and for any advantage that remote sensing may provide to existing monitoring approaches, including ensuring coverage when scheduling constraints or other factors impede onsite monitoring at NCI.

Missile Launch Monitoring

Multiple years of monitoring indicates that missile launches do not result in significant take (*i.e.,* only a subset of pinnipeds, in the vicinity of the launch trajectory, respond in a manner that would qualify as a take, and the impacts appear comparatively minor and of short duration). Therefore, monitoring of marine mammals is only required for the first three launches of the missiles for the new GBSD during the months of March through July (*i.e.,* the period during which harbor seals are pupping and California sea lions are present) across the 5-year duration of this rule.

When missile launch monitoring is required, monitoring will include multiple surveys each day. When possible, PSOs will record: species, number, general behavior, presence of pups, age class, gender, and reaction to launch noise, or to natural or other human-caused disturbances. They will also record environmental conditions, including visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction.

USSF Semi-Monthly Sentinel Surveys

USSF conducts marine mammal surveys on a regular basis in addition to the monitoring that is required based on launch characteristics and sound pressure thresholds, described above. These regular surveys help characterize onsite trends in pinniped presence and abundance and, over the longer term, provide important context for interpreting seasonal trends and launch-specific monitoring results. The current monthly surveys have allowed researchers to assess haul-out patterns and relative abundance over time, presenting a better picture of pinniped population trends at VSFB and whether USSF operations are resulting in cumulative impacts. For the period of this LOA, and in conjunction with proposed changes of monitoring criteria for launches, the applicant proposes to change the frequency of sentinel surveys from monthly to semi-monthly (two surveys per month).

Past surveys have captured important data including novel occurrences (such as unsuccessful California sea lion pupping on VSFB in 2003 and northern elephant seal pupping in 2017) and emerging or fleeting trends (such as greater numbers of northern elephant seals hauling out in 2004, and a temporary increase in California sea lions onsite in 2018 and 2019). These results, in conjunction with anticipated changes in launch activity and environmental factors underscore the value of consistent surveys collected on a regular basis, to provide sound context for launch-specific monitoring results.

USSF will conduct semi-monthly surveys (two surveys per month, rather than the current monthly surveys) to monitor the abundance, distribution, and status of pinnipeds at VSFB. Whenever possible, these surveys will be timed to coincide with the lowest afternoon tides of each month when the greatest numbers of animals are usually hauled out. South VSFB surveys start about two hours before the low tide and end two hours afterward. North VSFB surveys are either conducted by a separate surveyor on the same day as south VSFB, or on the day before/after south VSFB surveys. North VSFB surveys require approximately 90 minutes. Monitoring during nighttime low tides is not possible because of the dangerously unstable nature of the bluffs overlooking many of the observation points. Occasional VSFB or area closures also sometimes preclude monitoring on a given day, in which case the next best day will be selected.

NMFS-approved PSOs will gather the following data at each site: species, number, general behavior, presence of pups, age class, gender, and any reactions to natural or human-caused disturbances. They will also record environmental conditions, including visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction.

Adaptive Management

The regulations governing the take of marine mammals incidental to launches and supporting activities at VSFB contain an adaptive management component. Our understanding of the effects of launches and supporting activities (*e.g.,* acoustic and visual stressors) on marine mammals continues to evolve, which makes the inclusion of an adaptive management component both valuable and necessary within the context of 5-year regulations.

The reporting requirements associated with this rule are designed to provide NMFS with monitoring data from the previous year to allow NMFS to consider whether any changes to existing mitigation, monitoring or reporting requirements are appropriate. The use of adaptive management also allows NMFS to consider new information from different sources to determine (with input from the USSF regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications will have a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring and if the measures are practicable. If the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of the planned LOA in the **Federal Register** and solicit public comment.

Reporting

Proposed reporting requirements would include launch monitoring reports for each launch where monitoring is required or conducted, annual reports describing all activities and monitoring conducted in the project area that are covered under this proposed rule during each year, and a comprehensive 5-year report.

A launch monitoring report containing the following information would be submitted to NMFS within 90 days after each rocket launch where monitoring is required:

- Date(s) and time(s) of the launch (and sonic boom, if applicable);
- Monitoring program design; and
- Results of the monitoring program, including, but not necessarily limited to:
  - Date(s) and location(s) of marine mammal monitoring;
  - Number of animals observed, by species, on the haulout prior to commencement of the launch or recovery;
  - General behavior and, if possible, age (including presence of pups) and sex class of pinnipeds hauled out prior to the launch or recovery;
  - Number of animals, by species, age, and sex class, that responded at a level indicative of harassment;
  - Number of animals, by species, age, and sex class that entered the water, and any behavioral responses by pinnipeds that were likely in response to the specified activities, including in response to launch noise or a sonic boom;
  - Environmental conditions including visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction; and
  - Results of acoustic monitoring, including the recorded sound levels associated with the launch and/or sonic boom (if applicable).

If a dead or seriously injured pinniped is found during post-launch monitoring, the incident must be reported to the NMFS Office of Protected Resources and the NMFS West Coast Regional Office immediately.

USSF must submit an annual report to NMFS on March 1st of each year that summarizes the data reported in all

launch reports for the previous calendar year (as described above) including a summary of documented numbers of instances of harassment incidental to the specified activities. Annual reports would also include the results of the semi-monthly sentinel marine mammal monitoring and describe any documented takings incidental to the specified activities not included in the launch reports (*e.g.,* takes incidental to aircraft or helicopter operations observed during the semi-monthly surveys).

A final comprehensive 5- year report would be submitted to NMFS no later than 180 days prior to expiration of these regulations. This report must summarize the findings made in all previous reports and assess both the impacts at each of the major rookeries and assess any cumulative impacts on marine mammals from the specified activities.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, this introductory discussion of our analysis applies to all the species listed in table 3, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Activities associated with the proposed activities, as outlined previously, have the potential to disturb and temporarily displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment only, from airborne sounds resulting from launches and recoveries, including sonic booms from certain launches and sound or visual stimuli from UAS operations. Based on the best available information, including monitoring reports from similar activities conducted at the site, the Level B harassment of pinnipeds would likely be limited to reactions such as moving a short distance, with some hauled out animals moving toward or entering the water for a period of time following the disturbance.

As mentioned previously, different species of marine mammals and different conditions at haul out sites can result in different degrees of response from the animals. Sufficient data collected onsite can be used to characterize the relative tendency of species to react to acoustic disturbance and, specifically, to noise from VSFB launches and operations.

These distinctions in species response are discussed above in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section, and correction factors for species sensitivity are applied to the take estimates provided in this document.

As discussed earlier, Level B harassment of pinnipeds from rocket and missile launch activities or UAS exposure is primarily expected to be of relatively short duration, in the form of changing position, direction, or location on the haulout or, on a subset of occasions, flushing into the water for some amount of time (up to a few hours). UAS flights would be conducted in accordance with minimum altitude requirements designed to minimize impacts over haulouts and planning measures are in place to minimize launch effects to pinnipeds on beaches where pupping is occurring. Given the potential for seasonal site fidelity, it is likely that some individuals will be taken multiple times during the course of the year as a result of exposure to multiple launches, and potentially UAS overflights. However, given the intermittency of the launches and the fact that they do not all originate from the same location, these repeated exposures are not expected to result in prolonged exposures over multiple days. Thus, even repeated instances of Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in fitness of those individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment would be reduced to the level of least practicable adverse impact through use of mitigation measures described above.

As discussed earlier, some of the beaches that may be impacted by launch activities and UAS overflights support pupping in some months, specifically for harbor seals (March through June on VSFB and NCI), California sea lions (May through August on NCI), elephant seal (January through March on VSFB and December through March on NCI), and northern fur seal (June through August on San Miguel Island, NCI).

Broadly speaking, flushing of pinnipeds into the water has the potential to result in mother-pup separation, or in extreme circumstances could result in a stampede, either of which could potentially result in serious injury or mortality. However, based on the best available information, including reports from over 20 years of monitoring pinniped response to launch noise at VSFB and the NCI, no serious injury or mortality of marine mammals is anticipated as a result of the proposed activities. Further, USSF is required to provide pupping information to launch proponents at the earliest possible stage in the launch planning process, to maximize their ability to schedule launches to minimize pinniped disturbance during Pacific harbor seal pupping on Vandenberg SFB (1 March to 30 April) and California sea lion pupping on the Northern Channel Islands (1 June-31 July of each year). If practicable, rocket launches predicted to produce a sonic boom on the Northern Channel Islands >5 psf during the California sea lion pupping season will be scheduled to coincide with tides in excess of +1.0 ft, with an objective to achieve such avoidance at least 50 percent of the time which is expected to minimize the impacts at places and times where pupping could be occurring. Even in the instances of pinnipeds being harassed by sonic booms from rocket launches at VSFB, no

evidence of abnormal behavior, injuries or mortalities, or pup abandonment as a result of sonic booms (SAIC 2013; CEMML, 2018) has been presented. These findings are supported by more than two decades of surveys at VSFB and the NCI (MMCG and SAIC, 2012). Post-launch monitoring generally reveals a return to normal behavioral patterns within minutes up to an hour or two of each launch, regardless of species. For instance and of note, research on abundance and fecundity has been conducted at San Miguel Island (recognized as an important pinniped rookery) for decades. This research, as well as SARs, support a conclusion that operations at VSFB have not had significant impacts on the numbers of animals observed at San Miguel Island rookeries and haulouts (SAIC, 2012). In addition, northern elephant seal pupping was documented on VSFB for the first time in 2017 and continued into 2022, further indicating that the effects of ongoing launch activities do not preempt new marine mammal activity and are unlikely to have impacted annual rates of recruitment or survival among affected species.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No injury, serious injury, or mortality are anticipated or authorized;
- The anticipated instances of Level B harassment are expected to consist of, at worst, temporary modifications in behavior (*i.e.,* short distance movements and occasional flushing into the water with return to haulouts within approximately 60–120 minutes), which are not expected to adversely affect the fitness of any individuals;
- The proposed activities are expected to result in no long-term changes in the use by pinnipeds of rookeries and haulouts in the project area, based on over 20 years of monitoring data; and
- The presumed efficacy of planned mitigation measures in reducing the effects of the specified activity to the level of least practicable adverse impact.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. Here, a small portion of the activities (missile launches only) are considered military readiness activities, but we have conducted the assessment considering the totality of the take considered for this proposed rule. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the maximum number of individuals taken in any year to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted maximum annual number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. See 86 FR 5438–5440, January 19, 2021. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities. Here, we considered the tendency to show site fidelity among affected species, their seasonal distribution trends and the likelihood of individual animals being disturbed repeatedly (*i.e.,* taken by multiple launches across multiple days within a year), rather than proceeding as though each instance of take affecting a different individual.

For every year, the instances of take proposed for authorization of northern elephant seal, Steller sea lion, and Guadalupe fur seal comprise less than one-third of the best available population abundances (table 14). The number of animals authorized to be taken from these stocks would be considered small relative to the relevant stock's abundances even if each estimated instance of take occurred to a new individual, which is an unlikely scenario.

For harbor seals and California sea lions (years 4 and 5 only), and Northern fur seals (years 3, 4, and 5 only), the highest annual estimated instances of take are greater than or equal to one-third of the best available stock abundance (36, 33, and 42 percent, respectively). However, as noted previously, the number of expected instances of take do not necessarily represent the number of individual animals expected to be taken. The same individual can incur multiple takes by Level B harassment over the course of an activity that occurs multiple times in the same area (such as the USSF's proposed activity) and especially where species have documented site fidelity to a location within the project area, as is the case here. Additionally, due to the nature of the specified activity—launch activities affecting animals at specific haul out locations, rather than a mobile activity occurring throughout the much larger stock range—only a much smaller portion of the stock would be expected to be impacted. Thus, while we propose to authorize the instances of incidental take of these species shown in table 14, the number of individuals that would be incidentally taken by the proposed activities would, in fact, be substantially lower than the authorized instances of take, and less than one third of the stock abundance for each of these species. We base the small numbers determination on the number of individuals taken versus the number of instances of take, as is appropriate when the information is available.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of ITAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the NMFS Southwest Fisheries Science Center.

NMFS is proposing to authorize a limited amount of take, by Level B harassment (5–23 annually, 70 over the

course of the 5-year rule), of Guadalupe fur seals which are listed as Threatened under the ESA. On December 20, 2023, NMFS' West Coast Regional Office concurred with OPR's determination that USSF's proposed activities are consistent with those addressed by the region's February 15, 2019 letter of concurrence for the current LOA, and are not likely to adversely affect the Guadalupe fur seal.

National Marine Sanctuaries Act

Federal agency actions that are likely to injure national marine sanctuary resources are subject to consultation with the Office of National Marine Sanctuaries (ONMS) under section 304(d) of the National Marine Sanctuaries Act (NMSA). While rocket and missile launches do not occur in national marine sanctuary waters, depending on the direction of a given launch, rockets and missiles may cross over the Channel Islands National Marine Sanctuary. NMFS will work with NOAA's Office of National Marine Sanctuaries to fulfill our responsibilities under the NMSA as warranted and will complete any NMSA requirements prior to a determination on the issuance of the final rule and LOA.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) andNAO 216–6A, NMFS must review its proposed action (*i.e.,* the issuance of an ITA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (ITAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed ITA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the ITA request.

Request for Information

NMFS requests interested persons to submit comments, information, and suggestions concerning the USSF request and the proposed regulations (see **ADDRESSES**). All comments will be reviewed and evaluated as we prepare a final rule and make final determinations on whether to issue the requested authorization. This notice and referenced documents provide all environmental information relating to our proposed action for public review.

Classification

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this proposed rule is not significant.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The USSF is the sole entity that would be subject to the requirements in these proposed regulations, and the USSF is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Because of this certification, a regulatory flexibility analysis is not required and none has been prepared. This rule does not contain a collection-of-information requirement subject to the provisions of the Paperwork Reduction Act because the applicant is a Federal agency.

List of Subjects in 50 CFR Part 217

Exports, Fish, Imports, Marine mammals, Reporting and recordkeeping requirements, Transportation.

Dated: January 19, 2024.

Samuel D. Rauch III,

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

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

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

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. Revise subpart G to read as follows:

Subpart G—Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Space Force Launches and Operations at Vandenberg Space Force Base, California

Sec.

217.60 Specified activity and specified geographical region.
217.61 Effective dates.
217.62 Permissible methods of taking.
217.63 Prohibitions.
217.64 Mitigation requirements.
217.65 Requirements for monitoring and reporting.
217.66 Letters of Authorization.
217.67 Renewals and modifications of Letter of Authorization. 217.68–217.69 [Reserved]

§ 217.60 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the United States Space Force (USSF) and those persons it authorizes to conduct activities on its behalf, for the taking of marine mammals that occurs in the areas outlined in paragraph (b) of this section incidental to rocket and missile launches and supporting operations.

(b) The incidental taking of marine mammals under these regulations may be authorized in a Letter of Authorization (LOA) only for activities originating at Vandenberg Space Force Base (VSFB).

§ 217.61 Effective dates.

(a) Regulations in this subpart are effective from April 10, 2024, through April 10, 2029.

(b) [Reserved]

§ 217.62 Permissible methods of taking.

(a) Under an LOA issued pursuant to § 216.106 of this chapter and §§ 217.66 or 217.67, the Holder (hereinafter the USSF) may incidentally, but not intentionally, take marine mammals by Level B harassment, as described in § 217.60(a) and (b), provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) The incidental take of marine mammals by the activities listed in § 217.60 is limited to the following species and stocks:

TABLE 1 TO § 217.62(b)

Species	Stock
California sea lion	United States.
Northern fur seal	California.
Guadalupe fur seal	Mexico.
Steller sea lion	Eastern.
Harbor seal	California.
Northern elephant seal	California Breeding.

§ 217.63 Prohibitions.

(a) Except for takings contemplated in § 217.62 and authorized by a LOA issued under § 216.106 of this chapter and §§ 217.66 and 217.67, it shall be unlawful for any person to do any of the following in connection with the activities listed in § 217.60:

(1) Violate, or fail to comply with, the terms, conditions, and requirements of

this subpart or a LOA issued under §§ 216.106 of this chapter and §§ 217.66 or 217.67 of this chapter;

(2) Take any marine mammal species or stock not specified in such LOAs;

(3) Take any marine mammal specified in such LOAs in any manner other than as specified; or

(4) Take a marine mammal specified in such LOAs if NMFS determines after notice and comment that the taking allowed for one or more activities under 16 U.S.C. 1371(a)(5)(A) is having or may have more than a negligible impact on the species or stocks of such marine mammal.

(b) [Reserved]

§ 217.64 Mitigation requirements.

(a) When conducting the activities identified in § 217.60(a) and (b), the mitigation measures contained in any Letter of Authorization issued under § 216.106 of this chapter and §§ 217.66 or 217.67 must be implemented. These mitigation measures include (but are not limited to):

(1) USSF must provide pupping information to launch proponents at the earliest possible stage in the launch planning process and direct launch proponents to, if practicable, avoid scheduling launches during pupping seasons on VSFB from 1 March to 30 April and on the Northern Channel Islands from 1 June–31 July. If practicable, rocket launches predicted to produce a sonic boom on the Northern Channel Islands >3 psf from 1 June–31 July will be scheduled to coincide with tides in excess of +1.0 ft, with an objective to do so at least 50 percent of the time.

(2) For manned flight operations, aircraft must use approved routes for testing and evaluation. Manned aircraft must also remain outside of a 1,000-ft buffer around pinniped rookeries and haul-out sites (except in emergencies such as law enforcement response or Search and Rescue operations, and with a reduced, 500-ft buffer at Small Haul-out 1).

(3) UAS classes 0–2 must maintain a minimum altitude of 300 ft over all known marine mammal haulouts when marine mammals are present, except at take-off and landing. Class 3 must maintain a minimum altitude of 500 ft, except at take-off and landing. UAS classes 4 and 5 only operate from the VSFB airfield and must maintain a minimum altitude of 1,000 ft over marine mammal haulouts except at take-off and landing. USSF must not fly class 4 or 5 UAS below 1,000 ft over haulouts.

(b) [Reserved]

§ 217.65 Requirements for monitoring and reporting.

(a) Monitoring at VSFB and NCI must be conducted by at least one NMFS-approved Protected Species Observer (PSO) trained in marine mammal science. PSOs must have demonstrated proficiency in the identification of all age and sex classes of all marine mammal species that occur at VSFB and on NCI. They must be knowledgeable of approved count methodology and have experience in observing pinniped behavior, especially that due to human disturbances.

(b) In the event that the PSO requirements described in paragraph (a) of this section cannot be met (*e.g.,* access is prohibited due to safety concerns), daylight or night-time video monitoring may be used in lieu of PSO monitoring.

(c) At VSFB, USSF must conduct marine mammal monitoring and take acoustic measurements for all new rockets (for both existing and new launch proponents using the existing facilities) that are larger or louder than those that have been previously launched from VSFB during their first three launches and for the first three launches from any new facilities during March through July.

(1) For launches that occur during the harbor seal pupping season (March 1 through June 30) or when higher numbers of California sea lions are present (June 1 through July 31), monitoring must be conducted by at least one NMFS-approved PSO trained in marine mammal science.

(2) When launch monitoring is required, monitoring must begin at least 72 hours prior to the launch and continue through at least 48 hours after the launch. Monitoring must include multiple surveys each day.

(3) For launches within the harbor seal pupping season, USSF must conduct a follow-up survey of pups.

(4) For launches that occur during daylight, USSF must make time-lapse video recordings to capture the reactions of pinnipeds to each launch. For launches that occur at night, USSF will employ night video monitoring, when feasible.

(5) When possible, PSOs must record: species, number, general behavior, presence and number of pups, age class, gender, and reaction to launch noise, or to natural or other human-caused disturbances. PSOs must also record environmental conditions, including visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction.

(d) USSF must conduct sonic boom modeling prior to the first three small or medium rocket launches from new launch proponents or at new launch facilities, and all heavy or super-heavy rocket launches.

(e) USSF must conduct marine mammal monitoring and take acoustic measurements at the NCI if the sonic boom model indicates that pressures from a boom will reach or exceed 5 psf from 1 March through 31 July or 7 psf from 1 August through 30 September. No monitoring is required on NCI from 1 October through 28 February.

(1) The monitoring site must be selected based upon the model results, prioritizing a significant haulout site on one of the islands where the maximum sound pressures are expected to occur.

(2) USSF must estimate the number of animals on the monitored beach and record their reactions to the launch noise and conduct more focused monitoring on a smaller subset or focal group.

(3) Monitoring must commence at least 72 hours prior to the launch, during the launch and at least 48 hours after the launch, unless no sonic boom is detected by the monitors and/or by the acoustic recording equipment, at which time monitoring may be stopped.

(4) For launches that occur in darkness, USSF must use night vision equipment.

(5) Monitoring for each launch must include multiple surveys each day that record, when possible: species, number, general behavior, presence of pups, age class, gender, and reaction to sonic booms or natural or human-caused disturbances.

(6) USSF must collect photo and/or video recordings for daylight launches when feasible, and if the launch occurs in darkness night vision equipment will be used.

(7) USSF must record environmental conditions, including visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction.

(f) USSF must continue to test equipment and emerging technologies, including but not limited to night vision cameras, newer models of remote video cameras and other means of remote monitoring at both VSFB and on the NCI.

(g) USSF must evaluate UAS based or space-based technologies that become available for suitability, practicability, and for any advantage that remote sensing may provide to existing monitoring approaches.

(h) USSF must monitor marine mammals during the first three launches of the missiles for the new Ground Based Strategic Defense program during

the months of March through July across the 5-year duration of this rule.

(1) When launch monitoring is required, monitoring must include multiple surveys each day.

(2) When possible, PSOs must record: species, number, general behavior, presence and number of pups, age class, gender, and reaction to launch noise, or to natural or other human-caused disturbances. PSOs must also record environmental conditions, including visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction.

(i) USSF must conduct semi-monthly surveys (two surveys per month) to monitor the abundance, distribution, and status of pinnipeds at VSFB. Whenever possible, these surveys will be timed to coincide with the lowest afternoon tides of each month when the greatest numbers of animals are usually hauled out. If a VSFB or area closure precludes monitoring on a given day, USSF must monitor on the next best day.

(1) PSOs must gather the following data at each site: species, number, general behavior, presence and number of pups, age class, gender, and any reactions to natural or human-caused disturbances. PSOs must also record environmental conditions, including visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction.

(j) For each rocket or missile launch where monitoring is required as described in paragraphs (a), (c), and (e) of this section, USSF must submit a launch report to NMFS' West Coast Region and Office of Protected Resources within 90 days. This report must contain the following information:

(1) Date(s) and time(s) of the launch (and sonic boom, if applicable);

(2) Monitoring program design; and

(3) Results of the monitoring program, including, but not necessarily limited to:

(i) Date(s) and location(s) of marine mammal monitoring;

(ii) Number of animals observed, by species, on the haulout prior to commencement of the launch or recovery;

(iii) General behavior and, if possible, age (including presence and number of pups) and sex class of pinnipeds hauled out prior to the launch or recovery;

(iv) Number of animals, by species, age, and sex class, that responded at a level indicative of harassment;

(v) Number of animals, by species, age, and sex class that entered the water, and any behavioral responses by pinnipeds that were likely in response to the specified activities, including in response to launch noise or a sonic boom;

(vi) Environmental conditions including visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction; and

(vii) Results of acoustic monitoring, including the recorded sound levels associated with the launch and/or sonic boom (if applicable).

(k) If the activity identified in § 217.60(a) likely resulted in the mortality or injury of any marine mammals or in any take of marine mammals not identified in § 217.62, then the USSF must notify the NMFS Office of Protected Resources and the NMFS West Coast Region stranding coordinator within 48 hours of the discovery of the injured or dead marine mammal.

(i) USSF must submit an annual report each year to NMFS Office of Protected Resources. This report must summarize the data reported in all launch reports for the previous calendar year (as described in paragraph (g) of this section) including a summary of documented numbers of instances of harassment incidental to the specified activities. The annual reports must also include the results of the semi-monthly sentinel marine mammal monitoring and describe any documented takings incidental to the specified activities not included in the launch reports (*e.g.,* takes incidental to aircraft or helicopter operations observed during the semi-monthly surveys).

(l) USSF must submit a final, comprehensive 5-year report to NMFS Office of Protected Resources. This report must:

(1) Summarize the activities undertaken and the results reported in all previous reports;

(2) Assess the impacts at each of the major rookeries; and

(3) Assess the cumulative impacts on pinnipeds and other marine mammals from the activities specified in § 217.60(a) and (b);

§ 217.66 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to this subpart, the USSF must apply for and obtain an LOA in accordance with § 216.106 of this chapter.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed expiration of this subpart.

(c) If an LOA expires prior to the expiration date of this subpart, the USSF may apply for and obtain a renewal LOA.

(d) In the event of projected changes to the activity or to mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision of § 217.67(c)(1) required by an LOA, USSF must apply for and obtain a modification of the LOA as described in § 217.67.

(e) Each LOA will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of a LOA shall be published in the **Federal Register** within 30 days of a determination.

§ 217.67 Renewals and modifications of Letter of Authorization.

(a) A LOA issued under §§ 216.106 of this chapter and 217.66 for the activity identified in § 217.60(a) and (b) shall be modified upon request by the applicant, provided that:

(1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for this subpart (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or that result in no more than a minor change in the total estimated number of takes (or distribution by species or stock or years), NMFS may publish a notice of proposed changes to the LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 217.66 for the activity identified in § 217.60(a) and (b) may be modified by NMFS under the following circumstances:

(1) After consulting with the USSF regarding the practicability of the modifications, NMFS, through adaptive management, may modify (including adding or removing measures) the existing mitigation, monitoring, or reporting measures if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA include:

(A) Results from the USSF's monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or a subsequent LOA.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are more than minor, NMFS will publish a notice of the proposed changes to the LOA in the **Federal Register** and solicit public comment.

(2) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in LOAs issued pursuant to §§ 216.106 of this chapter and 217.62, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

§§ 217.68–217.69 [Reserved]

[FR Doc. 2024–01366 Filed 1–26–24; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 89, No. 19
Monday, January 29, 2024

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested 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 these information collections are best assured of having their full effect if received by February 28, 2024. 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.

Agricultural Marketing Service

Title: Reporting and Recordkeeping Requirements under Regulations (Other than Rules of Practice) Under the Perishable Agricultural Commodities Act, 1930.

OMB Control Number: 0581–0031.

Summary of Collection: The Perishable Agricultural Commodities Act (PACA) (7 U.S.C. 499a–499t) and PACA Regulations (7 CFR part 46) require nearly all persons who operate as commission merchants, dealers, and brokers buying or selling fruits and/or vegetables in interstate or foreign commerce to be licensed. The PACA requires that all parties fulfill their contractual obligations, and provides a forum for resolving contract disputes. Those who engage in practices prohibited by the PACA may have their licenses suspended or revoked. The license is effective for three (3) years for retailers and grocery wholesalers, unless withdrawn by USDA for valid reasons [7 CFR 46.9 (a)–(h)], and must be renewed on a triennial basis. The license for all other licensees will then be effective for one year, unless withdrawn by USDA for valid reasons [7 CFR 46.9 (a)–(h)] and must be renewed on an annual basis. Also, licensees must report changes in principals, stockholders, home addresses, and business locations to allow for proper notification in the event of a dispute. Sections 3 and 4 of the PACA and Sections 46.3 through 46.13 of the Regulations establish the requirement for licensing and the type of information that must be reported. The Division also asks that each licensee provide a business email address in the event that the licensee wishes to receive license or other PACA program information electronically. Section 9 of the PACA and Sections 46.14 through 46.32 of the Regulations define the type of business records that licensees must maintain. Businesses also provide federal tax identification numbers per USDA's National Finance Center (NFC) which handles all financial transactions for the PACA Division. NFC is required by the Internal Revenue Service to report refunds to businesses as taxable income. USDA had previously considered the possibility of requiring licensees to provide a standard numerical business identifier, such as the DUNS Number (Dun and Bradstreet's Data Universal Numbering System). However, this requirement for this identifier has been delayed indefinitely.

Need and Use of the Information: The information gathered on the following forms and business records is required by the PACA and the PACA Regulations. The information is used to adjudicate reparation and administrative complaints filed against licensees to determine the imposition of sanctions on firms and responsibly connected individuals who have engaged in unfair trading practices. If this information was unavailable, it would be impossible to identify and regulate individuals or firms that are restricted due to sanctions imposed because of reparation or administrative actions. Due to a recent AMS reorganization, PACA Division is now under the Fair Trade Practices Program (FTPP).

Description of Respondents: Business or other for-profit.

Number of Respondents: 9,178.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 87,450.

Agricultural Marketing Service

Title: Child Nutrition Labeling Program.

OMB Control Number: 0581–0261.

Summary of Collection: The CN Labeling Program is a voluntary technical assistance program, developed and implemented in 1984. The program is designed to aid schools and institutions participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP), by determining the contribution a commercial product makes toward the meal pattern requirements of these programs.

The National School Lunch Act (NSLA) was enacted as a measure of national security, to safeguard the health and well being of the nation's children and encourage the domestic consumption of agricultural commodities through federally supported school lunch programs. Section 9 (a) of the Act provides that ''Lunches served by schools participating in the school lunch program . . . shall meet minimum nutritional requirements prescribed by

the Secretary on the basis of nutritional research.'' Public Law 90–302 enacted in 1968 amended the NSLA and established the Special Food Service Program for Children (SFSPFC). This was a pilot program consisting of the forerunners to the Child Care Food Program and Summer Food Service Program. The SFSPFC was created in response to the growing number of working mothers and their children's need for good nutrition when not attending school. Food service programs for children were further strengthened in 1975 when Congress separated the Child Care Food Program and Summer Food Service components of the SFSPFC and provided each with legislative authorization. The National School Lunch Act mandates the establishment of meal pattern requirements for the Summer Food Service Program (section 13(f)) and for the Child Care Food Program (section 17(g)). The Child Nutrition Act of 1966 was enacted to strengthen and expand food service programs for children. Section 4(e) mandates minimum nutritional requirements for the SBP.

The Child Nutrition Labeling Program evolved in response to a need by child nutrition food service personnel to determine the contribution foods make toward the meal pattern requirements of the Child Nutrition Programs. During the 1970's, changes and expansion in food technology and marketing increased the availability and use of commercially prepared products such as beef patties and combination food items (burritos, pizzas, etc.) in the Child Nutrition Programs. These products posed a problem for food service personnel. It was difficult at the point of sale to determine their contribution towards the food based meal pattern requirements and assure compliance with Federal regulations for serving specific amounts of food. With the anticipation of increased sales of these products to the Child Nutrition Programs, FNS was prompted to form an evaluation committee to determine a means for properly evaluating the contribution of these products in meeting the meal pattern requirements. The Committee, composed of Food and Nutrition Service (FNS), Food Safety Inspection Service (FSIS), Agricultural Marketing Service (AMS), and National Marine Fisheries Service (NMFS) staff worked together to recommend, design, and implement the CN Labeling Program to review and monitor such products.

The Child Nutrition Labeling Program is implemented in conjunction with existing label approval programs administered by the Food Safety and Inspection Service (FSIS), and the U.S. Department of Commerce (DoC). To participate in the CN Labeling Program, industry submits labels to AMS of products that are in conformance with the FSIS label approval program (for meat and poultry), and the DoC label approval program (for seafood products).

Need and Use of the Information: AMS To participate in the CN Labeling Program, a food manufacturer submits a label application to AMS for each food item they wish to market with a CN label. The CN label statement indicates the portion size and what that portion provides towards the meal pattern requirements. AMS reviews the product formulation to determine if the CN label statement is accurate. The burden accounted for includes the CN elements of the form only (AMS reviews boxes 4, 5a, 9, 15, and 16 and it is estimated to take 15 minutes to complete). If the CN label is correct and complies with CN Labeling requirements, AMS places a CN stamp of approval on the FSIS Form 7234–1 (OMB approval number: 0583–0092) (which food manufacturers use to submit their CN label applications). Once the label is approved it can be used by the manufacturer. The existence of a CN label on a product assures schools and other CN program operators that the product contributes to the meal pattern requirements as stated on the label.

There is no Federal requirement that commercially prepared products have CN label statements. The decision to require that products used in the Child Nutrition Programs contain a CN label statement is left to the local schools, child-care or summer institutions, or States administering these programs. However, the CN Labeling Program plays a significant role in the food service management of Child Nutrition Programs. The scope and use of products labeled under the CN Labeling Program have continually expanded. The continued requests for CN labels by food manufacturers and food service directors are due to the following: (1) The increased use of commercially prepared products, (2) the requirement by some States that applicable processed donated food products bear a CN label statement, and (3) increased use of the CN label as a requirement in purchase specifications prepared by local school food authorities. In addition, support for the use of CN label statements has come from the Inspector General, food trade associations and the National Advisory Council on Child Nutrition. These groups believe that a broad CN Labeling Program could help assure compliance with food based meal patterns.

Description of Respondents: Business or other for-profit.

Number of Respondents: 203.

Frequency of Responses: Reporting: On Occasion.

Total Burden Hours: 203.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–01704 Filed 1–26–24; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Privacy Act of 1974; Revised System of Records

AGENCY: Office of the Chief Financial Officer (OCFO), National Finance Center (NFC).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, and Office of Management and Budget Circular No. A–108, the U.S. Department of Agriculture (USDA) proposed revised system of records, the Personnel and Payroll System for USDA Employees (OP–1), will be renamed—Office of the Chief Financial Officer (OCFO), National Finance Center (NFC), Systems for Personnel, Payroll, and Time & Attendance. OCFO/NFC–1 Systems for Personnel, Payroll, and Time & Attendance provides comprehensive, cost-effective, and reliable services as well as automated, accurate, and timely actions necessary for recording, processing, and reporting personnel, payroll, and time and attendance data for USDA and other Federal agencies serviced by NFC. These systems are full-service, integrated payroll, personnel, and time and attendance applications that link personnel actions, and processing payroll activities. The OCFO/NFC–1 Systems for Personnel, Payroll, and Time & Attendance processes personnel actions, awards, allotments, performance appraisals, health and life insurance, thrift savings plan, tax documents, severance pay, leave record, time, & attendance, payroll-related financial reporting operations, retirements, and management of debt collection on behalf of federal agencies related to employee debt.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day notice and comment period in which to comment on the routine uses described in the routine uses section of

this system of records notice. Please submit your comments by February 28, 2024.

ADDRESSES: Comments may be submitted by one of the following methods:

—*Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *https://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.

—*Postal Mail/Commercial Delivery:* National Finance Center, USDA, OCFO, National Finance Center, P.O. Box 60000, New Orleans, Louisiana 70160 or email *nfc.1.sorn@usda.gov*.

—*Instructions:* All items submitted by mail or electronic mail must include the Agency name and docket number USDA–2022–0008. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact the National Finance Center, Director, 13800 Old Gentilly Road, Building 318, New Orleans, LA 70129, email *NFC.1.SORN@usda.gov* or call 504–426–0120.

—For Privacy Act questions concerning this revised system of records notice, please contact USDA Departmental Administration Information Technology Office, Office of the Chief Information Officer, United States Department of Agriculture, email at: *ocio.cio.daitoservices@usda.gov,* or by phone at: 202–577–8071.

—For general USDA Privacy Act questions, please contact the USDA Chief Privacy Officer, Information Security Center, Office of the Chief Information Officer, USDA, Jamie L. Whitten Building, 100 Independence Ave. SW, Washington, DC 20250, email: *USDAprivacy@usda.gov*.

SUPPLEMENTARY INFORMATION: The purposes of the system's revisions are: (1) Renaming the system of records notice; (2) Expanding the categories of individuals on whom the records are maintained in the system; (3) Updating the categories of records maintained in the system; (4) Updating the Location of the system of records; and (5) Updating Routine Uses.

SYSTEM NAME AND NUMBER:

OCFO/NFC–1 Systems for Personnel, Payroll, and Time & Attendance.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The OCFO/NFC–1 Systems for Personnel, Payroll, and Time & Attendance is maintained at the Enterprise Data Center—Kansas City, Kansas City, MO 64114. Records can be located at NFC customer locations.

SYSTEM MANAGER(S):

Director, National Finance Center, 13800 Old Gentilly Road, Building 318, New Orleans, LA 70129, *nfc.1.sorn@usda.gov,* 504–426–0120.

Chief Financial Officers Act of 1990 Public Law 101–576.

PURPOSE OF THE SYSTEM:

The purpose of the OCFO/NFC–1 Systems for Personnel, Payroll, and Time & Attendance is to provide comprehensive, cost- effective, and reliable services as well as automated, accurate, and timely actions necessary for recording, processing, and reporting personnel, payroll, and time and attendance data for USDA and non-USDA agencies serviced by NFC. These systems are a full-service, integrated payroll, personnel, and time and attendance applications that link personnel actions and payroll activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USDA and non-USDA Federal Employees, former employees, contractors, permittees, cooperators, and applicants for Federal employment whose personnel, payroll, and time & attendance records are serviced by NFC are covered by the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

The systems consist of current and historical personnel, payroll, and time and attendance records.

RECORD SOURCE CATEGORIES:

Information in these systems come from Federal agencies, employees, contractors, managers, agency human resources offices, agency payroll and personnel offices, individuals on whom the record is maintained, educational institutions, and agency officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, records contained in this system may be disclosed outside USDA as a routine use pursuant to 5 U.S.C. 552a(b)(3), to the extent that such uses are compatible with the purposes for which the information was collected. Such permitted routine uses include the following:

(1) Office of Personnel Management for required action, records, and reports;

(2) Department of Treasury for issuance of checks and bonds;

(3) Department of Labor for Office of Workers Compensation

(4) Congress for special reports, or in response to an inquiry from a Congressional office made at the written request of the individual about whom the record pertains;

(5) White House for special reports;

(6) Office of Management and Budget for special reports;

(7) General Accounting Office for special Reports;

(8) Disclosure to the Department of Justice (DOJ) for use in litigation when: (a) the agency or any component thereof; or (b) any employee of the agency in his or her official capacity where DOJ has agreed to represent the employee; or the United States Government is a party to litigation or has an interest in such litigation;

(9) General Services Administration for records retirement and/or destruction;

(10) State Department for passport and foreign assignments;

(11) Department of Transportation, Environmental Protection Agency and cooperating state and local agencies for accident and safety records;

(12) Internal Revenue Service and State and local government for matters in connection with payment of income taxes;

(13) Social Security Administration for social security payment Information;

(14) Combined Federal Campaign for reports and records;

(15) Department of Health and Human Services for scheduling physical examinations;

(16) All Government agencies and potential employers concerning employment inquiries;

(17) Equal Employment Opportunity Commission for handling Complaints;

(18) appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing a statute or a rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether, civil, criminal, or regulatory in nature, and whether arising by general statue or other particular program statute, or by rule, regulation or order issued pursuant thereto;

(19) a court, magistrate, or administrative tribunal, or to opposing

counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery to the extent that USDA determines that the records are relevant to the proceedings;

(20) any agency of the Federal Government which has identified USDA or Non-USDA employees as having defaulted in the repayment of an obligation incurred under any statutory authority except the Internal Revenue Code, the Social Security Act, or the U.S. tariff laws;

(21) the Internal Revenue Service to enable it to offset and satisfy past due, legally enforceable debts owed to USDA against Federal income tax refunds;

(22) labor organizations recognized under 5 U.S.C. Chapter 71 to provide home addresses or designated mailing addresses of bargaining unit employees;

(23) the cooperator(s) selected to evaluate personnel-related demonstration projects;

(24) The names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information and State of hire of employees may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establishing and modifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1966 (Pub. L. 104–193). Se.

(25) To the Department of Justice (DOJ) when: (a) USDA or Non-USDA or any component thereof; or (b) any employee of USDA or Non-USDA in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and USDA or Non-USDA determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is deemed by USDA or Non-USDA to be for a purpose that is compatible with the purpose for which USDA or Non-USDA collected the records.

(26) To a congressional office in response to an inquiry from that Congressional office made at the written request of the individual about whom the record pertains;

(27) To the National Archives and Records Administration (NARA) or other Federal government agencies pursuant to records management activities being conducted under 44 U.S.C. 2904 and 2906;

(28) To appropriate agencies, entities, and persons when (1) USDA suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) USDA has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, USDA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm; or to another Federal agency or Federal entity, when information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach; or (2) preventing, minimizing, or remedying the risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security.

(29) When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program, statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate Federal, State, local, foreign, Tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity. Referral to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting violation of law, or of enforcing or implementing a statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature;

(30) To a court or adjudicative body in a proceeding when: (a) USDA or non-USDA or any component thereof; or (b) any employee of USDA in his or her official capacity; or (c) any employee of USDA in his or her individual capacity where USDA has agreed to represent the employee; or the United States Government is a party to litigation or has an interest in such litigation, and USDA determines that the records are both relevant and necessary to the litigation, and that use of such records is therefore deemed by USDA to be for a purpose that is compatible with the purpose for which USDA collected the records;

(31) To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the USDA or Non-USDA, when necessary to accomplish an agency function related to this system of records. Individuals providing information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to USDA officers and employees;

(32) To appropriate agencies, entities, and persons (1) when NFC suspects or has confirmed that there has been a breach of the system of records, (2) NFC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NFC (including its information systems, programs, and operations), the Federal Government, or national security and (3) the disclosure made to such agencies, entities, and persons are reasonably necessary to assist in connection with NFC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(33) To another Federal agency or Federal entity, when NFC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

(34) To disclose relevant information with personal identifiers of Federal civilian employees whose records are contained in the Personnel, Payroll, and Time & Attendance System for USDA and Non-USDA Employees to an authorized Federal, State, tribal, local, or foreign agency, or other public authority. This will help eliminate waste, fraud, and abuse in Governmental programs or operations; to help identify individuals who are potentially in violation of civil or criminal law or regulation; and to

collect debts and overpayments owed to Federal, State, or local governments and their components;

(35) To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

POLICIES AND PRACTICIES FOR STORAGE OF RECORDS:

Electronic records are stored at the USDA Office of the Chief Information Officer (OCIO), Digital Infrastructure Services Center (DISC) Data Center, and Iron Mountain Digital Records Center. All other record formats are stored at the Federal Records Centers.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by various combinations of name, agency, birth date, social security number, or identification number of the individual on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with approved NARA guidance, NFC Records Control Schedule N1–016–10–7.

Pursuant to this records schedule, records are retained for 56 years.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper or microfiche/microfilmed records are located at the Federal Records Centers. Access to computerized records is limited, through use of user logins and passwords, access codes, and entry logs, to those whose official duties require access.

Computerized records systems are consistent with the requirements of the Federal Information Security Management Act (Pub. L. 107–296), and associated OMB policies, standards and guidance from the National Institute of Standards and Technology.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to a record in this system of records maycontact the NFC Director at the address listed above. Provide the NFC Director with the necessary particulars such as full legal name, date of birth, work address, country of citizenship. Requesters must also reasonably specify the record contents sought. The request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity. All requests for access to records must be in writing and should be submitted to the NFC Director at the address listed above. A determination whether a record may be accessed will be made at the time a request is received.

CONTESTING RECORDS PROCEDURES:

Individuals seeking to contest or amend information maintained in the system should direct their request to the above listed NFC Director and should include the reason for contesting it and the proposed amendment to the information with supporting information to show how the record is inaccurate. A request for contesting records should contain: Name, address including zip code, name of the system of records, year of records in question, and any other pertinent information to help identify the data requested.

NOTIFICATION PROCEDURES:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to the individual, from the NFC Director listed above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Federal Register, Vol. 40, No. 167, August 27, 1975, page 38986–38989; **Federal Register**, Vol. 63, No 18, Wednesday, January 18, 1998.

Trudy Sandefer,

Deputy Director, GESD/NFC/OCFO/USDA.

[FR Doc. 2024–01680 Filed 1–26–24; 8:45 am]

BILLING CODE 3410–68–P

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 requested 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 February 28, 2024 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.

Animal and Plant Health Inspection Service

Title: APHIS Credit Account and User Fee Programs.

OMB Control Number: 0579–0055.

Summary of Collection: The Food, Agriculture, Conservation and Trade Act of 1990, as amended, authorizes the Secretary of Agriculture and the Animal and Plant Health Inspection Service (APHIS) to prescribe and collect fees to cover the costs of providing certain agricultural quarantine, inspection, and veterinary diagnostics services. Reimbursable overtime fees may also be assessed for inspection services requested during non-duty hours. The Secretary is authorized to use the revenue to provide reimbursements to any appropriation accounts that incur costs associated with the services provided. The Debt Collection Improvement Act of 1996 authorizes the Agency to collect information from person(s) requesting to establish credit accounts with the U.S. government. APHIS charges the appropriate fees to respondents using billing information obtained from several APHIS documents.

Need and Use of the Information: APHIS will collect information from requests to establish credit accounts to conduct credit checks and to ensure credit worthiness prior to extending credit services. APHIS will also collect information required to identify fees associated with provided services, and to ensure that the correct amounts are collected and remitted in full in a timely manner. Without the information,

APHIS would not be able to ensure substantial compliance with the statute. Noncompliance with the statute could result in misappropriation of public funds and lost revenue to the Federal Government.

Description of Respondents: Business or other for-profit; Individuals.

Number of Respondents: 144,209.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 95,310.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–01666 Filed 1–26–24; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will hold a public meeting according to the details shown below. The Council is authorized under the Cooperative Forestry Assistance Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the Council is to develop a national urban and community forestry ten-year action plan, evaluate and report annually on the implementation of that plan to the Secretary, and develop criteria for and submit recommendations to the Forest Service's National Urban and Community Forestry Challenge Cost-share Grant Program.

DATES: An in-person and virtual meeting will be held on February 28, 2024, 9 a.m.–5 p.m., Mountain Standard Time (MST) and February 29, 2024, 8:30 a.m.–1 p.m. MST.

Written and Oral Comments: Anyone wishing to provide in-person and/or virtual oral comments must pre-register by 11:59 p.m. MST on February 21, 2024. Written public comments will be accepted up to 11:59 p.m. MST on February 21, 2024. Comments submitted after this date will be provided to the Forest Service, but the Council may not have adequate time to consider those comments prior to the meeting.

All Council meetings are subject to cancellation. For status of the meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings will be held in person and virtually at the Valle de Oro National Wildlife Refuge located at 7851 Second Street Southwest, Albuquerque, New Mexico 87105. Council information and meeting details can be found at the following website: *https://www.fs.usda.gov/managing-land/urban-forests/ucf* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: Written comments must be sent by email to *nancy.stremple@usda.gov* or via mail (*i.e.,* postmarked) to Nancy Stremple, 201 Fourteenth Street, South West, Sidney Yates Building 3SC–01B, Washington, DC 20024. The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. MST February 21, 2024, and speakers can only register for one speaking slot. Oral comments must be sent by email *to nancy.stremple@usda.gov* or via mail (*i.e.,* postmarked) to Nancy Stremple, 201 Fourteenth Street, South West, Sidney Yates Building 3SC–01B, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Nancy Stremple, Designated Federal Officer (DFO), by email at *nancy.stremple@usda.gov*.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Introduce National Urban and Community Forestry Council members;
2. Present about Valle de Oro National Urban Wildlife Refuge and community engagement;
3. Discuss National Ten Year Action Plan, its Five Year Benchmark, Accomplishment Report, and process in Preparation for the Next Ten Year Action Plan (2027–2037);
4. Receive Presentation on Extreme Heat and site tour Thursday;
5. Schedule future meetings; and
6. Other Council related items.

The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Written comments may be submitted to the Forest Service up to 5 days after the meeting date listed under **DATES**.

Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, by or before the deadline, for all questions related to the meeting. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

Meeting Accommodations: The meeting location is compliant with the Americans with Disabilities Act, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation to the person listed under the **FOR FURTHER INFORMATION CONTACT** section or contact USDA's TARGET Center at (202) 720–2600 (voice and TTY) or USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Council. To ensure that the recommendations of the Council have considered the needs of the diverse groups served by USDA, membership shall include to the extent possible individuals with demonstrated ability to represent minorities, women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: January 23, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024–01614 Filed 1–26–24; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Agricultural Library

Notice of Second Interested Party Feedback Period Regarding Increasing Public Access to the Results of USDA-Funded Research

AGENCY: National Agricultural Library, Agricultural Research Service, Department of Agriculture.

ACTION: Notice of second public feedback period.

SUMMARY: The U.S. Department of Agriculture's (Department's) National Agricultural Library (NAL) announces a second public feedback period to receive public comments, recommendations, and suggestions on the Department's planned response to White House Office of Science and Technology Policy (OSTP) guidance on access to the results of federally-funded research. The Department's plan and policies apply to the results of research funded wholly or in part by any USDA component agency. This effort to obtain input regarding implementation of federal public access requirements will be carried out through an online submission mechanism. This second public feedback period is to allow opportunity for feedback from interested parties not widely heard from during the first period, including but not limited to members of the public; principal investigators; research institutions, including minority-serving institutions; research libraries; data repositories; and data scientists. Responses received during the first comment period have already been reviewed and will be considered along with comments received during the second comment period. If you need a reasonable accommodation or language access services to leave a written comment, please contact Cynthia Parr, National Agricultural Library, at *Cynthia.Parr@usda.gov,* or 301–837–8917.

Written Comments: Submission of written interested party input will be open upon publishing of this Notice through 5 p.m. Eastern time February 28, 2024, via the Federal eRulemaking portal as described below.

ADDRESSES:

Written comments: Written comments must be submitted via the Federal eRulemaking Portal at *regulations.gov.* Please go to *www.regulations.gov* to submit your comments electronically. Information on using *regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available at *https://www.nal.usda.gov/services/public-access/.*

The Department will not accept comments submitted by fax or by email or comments submitted after the comment period closes. To ensure that the Department does not receive duplicate copies, please submit your comments only once.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Cynthia Parr, National Agricultural Library, at *Cynthia.Parr@usda.gov,* or 301–837–8917.

SUPPLEMENTARY INFORMATION:

Purpose: USDA seeks further public input on its plans for enhancing policy, infrastructure, and outreach to make results of the research it funds more readily available and accessible by the public.

Background: USDA developed a public access plan in response to the February 22, 2013, OSTP memorandum entitled ''Increasing Access to the Results of Federally Funded Scientific Research'' and several White House memoranda. Current USDA policy and activities were developed from that original plan. On August 25, 2022, OSTP issued a new public access memorandum: ''Ensuring Free, Immediate, and Equitable Access to Federally Funded Research.'' In response to OSTP's 2022 memo, USDA will enhance policy, infrastructure, and outreach to make its scientific data and publications more readily available and accessible by the public, as described generally in its new plan available at: *https://www.nal.usda.gov/services/public-access/.* This comment period, organized by the National Agricultural Library on behalf of the USDA Office of the Chief Scientist, allows interested parties the opportunity to provide feedback on USDA's plan and to inform details of its policy-making and other implementation. The USDA Public Access plan and policies apply to the results of research funded wholly or in part by any USDA component agency. USDA provides the following questions to prompt feedback and comments. USDA encourages public comment on any or all of these questions, and also seeks any other information that commenters believe is relevant.

- How can USDA best implement its plans to improve public access to USDA-funded research results?
- How can USDA update or refine its policies to improve public access to USDA-funded research results?
- How can USDA ensure equity in publication opportunities?
- How can USDA use partnerships to improve public access and accessibility to results of USDA-funded research?
- How can USDA monitor impacts on communities impacted by its public access policies?

Done at Washington, DC

Jeffrey Silverstein,

Acting Associate Administrator, Agricultural Research Service, U.S. Department of Agriculture.

[FR Doc. 2024–01673 Filed 1–26–24; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Longitudinal Employer-Household Dynamics (LEHD)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on November 14, 2023 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Longitudinal Employer-Household Dynamics (LEHD).

OMB Control Number: 0607–1001.

Form Number(s): None.

Type of Request: Regular submission, request for a revision of a currently approved collection.

Number of Respondents: 54.

Average Hours Per Response: No more than 8 hours required to identify and send/post required data sets.

Burden Hours: 1728 hours.

Needs and Uses: The data products developed by the LEHD program provide statistics on employment, earnings, and job flows at detailed levels of geography and industry and for different demographic groups. The potential and realized uses of these data products and their supporting dissemination tools are far-reaching, both for unraveling many important questions in economic research and for the provision of new statistical products. Over the first five months of 2017, the Census Bureau received more than 105,000 visits to its LEHD dissemination tools. A few examples of novel use of LEHD data include:

• The New Jersey State Data Center used OnTheMap for Emergency Management to quickly learn the impact of hurricane Sandy with regards to identification of Federal Disaster Declaration Areas and its effects on communities (*i.e.,* population and workforce).

• The State of Nevada has used the Job-to-Job Flows data product to understand the migration of its workforce that supports the hotel industry.

• The Philadelphia Center City District used LEHD data to understand the details of the area's workforce and economy in order to monitor the effectiveness of economic programs and policy initiatives.

Additional examples of how the LEHD data products and supporting dissemination tools have been used can be found at the LEHD website: *https://lehd.ces.census.gov/led_in_action/.*

Affected Public: Not-for-profit institutions; State, local, or Tribal government; Federal Government.

Frequency: Quarterly.

Respondent's Obligation: Voluntary via a Memorandum of Understanding (MOU).

Legal Authority: The authority to conduct the LEHD program is 13 U.S.C. 6. Confidentiality of all collected data is assured by 13 U.S.C. 9.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–1001.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–01719 Filed 1–26–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Ruling Applications Filed in Antidumping and Countervailing Duty Proceedings

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

SUMMARY: The U.S. Department of Commerce (Commerce) received scope ruling applications, requesting that scope inquiries be conducted to determine whether identified products are covered by the scope of antidumping duty (AD) and/or countervailing duty (CVD) orders and that Commerce issue scope rulings pursuant to those inquiries. In accordance with Commerce's regulations, we are notifying the public of the filing of the scope ruling applications listed below in the month of December 2023.

DATES: Applicable January 29, 2024.

FOR FURTHER INFORMATION CONTACT: Terri Monroe, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–1384.

Notice of Scope Ruling Applications

In accordance with 19 CFR 351.225(d)(3), we are notifying the public of the following scope ruling applications related to AD and CVD orders and findings filed in or around the month of December 2023. This notification includes, for each scope application: (1) identification of the AD and/or CVD orders at issue (19 CFR 351.225(c)(1)); (2) concise public descriptions of the products at issue, including the physical characteristics (including chemical, dimensional and technical characteristics) of the products (19 CFR 351.225(c)(2)(ii)); (3) the countries where the products are produced and the countries from where the products are exported (19 CFR 351.225(c)(2)(i)(B)); (4) the full names of the applicants; and (5) the dates that the scope applications were filed with Commerce and the name of the ACCESS scope segment where the scope applications can be found.[1] This notice does not include applications which have been rejected and not properly resubmitted. The scope ruling applications listed below are available on Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), at *https://access.trade.gov.*

Scope Ruling Applications

Alloy and Certain Carbon Steel Threaded Rod from the People's Republic of China (China) (A–570–104); wheel studs;[2] produced in and exported from China; submitted by Logistical Resource Development Inc. (LRD); December 22, 2023; ACCESS scope segment ''Wheel Studs.''

Carbon and Alloy Steel Threaded Rod from China (C–570–105); wheel studs;[3] produced in and exported from China; submitted by LRD; December 22, 2023; ACCESS scope segment ''Wheel Studs.''

Notification to Interested Parties

This list of scope ruling applications is not an identification of scope inquiries that have been initiated. In accordance with 19 CFR 351.225(d)(1), if Commerce has not rejected a scope ruling application nor initiated the scope inquiry within 30 days after the filing of the application, the application will be deemed accepted and a scope inquiry will be deemed initiated the following day—day 31.[4] Commerce's practice generally dictates that where a deadline falls on a weekend, Federal holiday, or other non-business day, the appropriate deadline is the next business day.[5] Accordingly, if the 30th day after the filing of the application

[1] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52316 (September 20, 2021) (*Final Rule*) (''It is our expectation that the **Federal Register** list will include, where appropriate, for each scope application the following data: (1) identification of the AD and/or CVD orders at issue; (2) a concise public summary of the product's description, including the physical characteristics (including chemical, dimensional and technical characteristics) of the product; (3) the country(ies) where the product is produced and the country from where the product is exported; (4) the full name of the applicant; and (5) the date that the scope application was filed with Commerce.'').

[2] The products are alloy steel wheel studs, which are threaded rods with an inset hex head ranging from 1.73′ to 3.75′ (44 mm to 95 mm) in lengths and in various widths ranging from M12 to M14, and either 1.25 to 1.5 thread spacing.

[3] The products are alloy steel wheel studs, which are threaded rods with an inset hex head ranging from 1.73′ to 3.75′ (44 mm to 95 mm) in lengths and in various widths ranging from M12 to M14, and either 1.25 to 1.5 thread spacing.

[4] In accordance with 19 CFR 351.225(d)(2), within 30 days after the filing of a scope ruling application, if Commerce determines that it intends to address the scope issue raised in the application in another segment of the proceeding (such as a circumvention inquiry under 19 CFR 351.226 or a covered merchandise inquiry under 19 CFR 351.227), it will notify the applicant that it will not initiate a scope inquiry, but will instead determine if the product is covered by the scope at issue in that alternative segment.

[5] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

falls on a non-business day, the next business day will be considered the ''updated'' 30th day, and if the application is not rejected or a scope inquiry initiated by or on that particular business day, the application will be deemed accepted and a scope inquiry will be deemed initiated on the next business day which follows the ''updated'' 30th day.[6]

In accordance with 19 CFR 351.225(m)(2), if there are companion AD and CVD orders covering the same merchandise from the same country of origin, the scope inquiry will be conducted on the record of the AD proceeding. Further, please note that pursuant to 19 CFR 351.225(m)(1), Commerce may either apply a scope ruling to all products from the same country with the same relevant physical characteristics (including chemical, dimensional, and technical characteristics) as the product at issue, on a country-wide basis, regardless of the producer, exporter, or importer of those products, or on a company-specific basis.

For further information on procedures for filing information with Commerce through ACCESS and participating in scope inquiries, please refer to the Filing Instructions section of the Scope Ruling Application Guide, at *https://access.trade.gov/help/Scope_Ruling_Guidance.pdf.* Interested parties, apart from the scope ruling applicant, who wish to participate in a scope inquiry and be added to the public service list for that segment of the proceeding must file an entry of appearance in accordance with 19 CFR 351.103(d)(1) and 19 CFR 351.225(n)(4). Interested parties are advised to refer to the case segment in ACCESS as well as 19 CFR 351.225(f) for further information on the scope inquiry procedures, including the timelines for the submission of comments.

Please note that this notice of scope ruling applications filed in AD and CVD proceedings may be published before any potential initiation, or after the initiation, of a given scope inquiry based on a scope ruling application identified in this notice. Therefore, please refer to the case segment on ACCESS to determine whether a scope ruling application has been accepted or rejected and whether a scope inquiry has been initiated.

Interested parties who wish to be served scope ruling applications for a particular AD or CVD order may file a request to be included on the annual inquiry service list during the anniversary month of the publication of the AD or CVD order in accordance with 19 CFR 351.225(n) and Commerce's procedures.[7]

Interested parties are invited to comment on the completeness of this monthly list of scope ruling applications received by Commerce. Any comments should be submitted to James Maeder, Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, via email to *CommerceCLU@trade.gov.*

This notice of scope ruling applications filed in AD and CVD proceedings is published in accordance with 19 CFR 351.225(d)(3).

Dated: January 23, 2024.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–01664 Filed 1–26–24; 8:45 am]

BILLING CODE 3510–DS–P

[6] This structure maintains the intent of the applicable regulation, 19 CFR 351.225(d)(1), to allow day 30 and day 31 to be separate business days.

[7] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–842]

Passenger Vehicle and Light Truck Tires From Thailand: Final 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) determines that Sentury Tire (Thailand) Co., Ltd. (Sentury) and Sumitomo Rubber (Thailand) Co., Ltd. (SRT) made sales of subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) January 6, 2021, through June 30, 2022. Commerce further determines that sales of subject merchandise made by the non-individually examined companies were at prices below NV.

DATES: Applicable January 29, 2024.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Jacob Saude, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2371 or (202) 482–0981, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 2023, Commerce published the preliminary results of the 2021–2022 administrative review of the antidumping duty order on passenger vehicle and light truck tires (passenger tires) from Thailand.[1] We invited interested parties to comment on the *Preliminary Results.*[2] On November 8, 2023, Commerce extended the deadline for the final results of this administrative review until January 23, 2024.[3]

For a summary of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[4] Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [5]

The merchandise subject to this *Order* are passenger tires from Thailand. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs filed in this administrative review in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is included 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 Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2021–2022,* 88 FR 48435 (July 27, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *Id.,* 88 FR at 48436.

[3] *See* Memorandum, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated November 8, 2023.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2021–2022 Administrative Review of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires from Thailand,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, and Thailand: Antidumping Duty Orders and Amended Final Affirmative Antidumping Duty Determination for Thailand,* 86 FR 38011 (July 19, 2021) (*Order*).

Changes Since the Preliminary Results

Based on an analysis of the comments received, we have made no changes to the *Preliminary Results*.

Rates for Non-Examined Respondents

The statute and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be determined for companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when determining the weighted-average dumping margin for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely on the basis of facts available.

In this review, we calculated weighted-average dumping margins of 1.24 percent and 6.16 percent for Sentury and SRT, respectively. With two respondents under individual examination, Commerce normally calculates: (A) a weighted average of the estimated dumping rates calculated for the examined respondents; (B) a simple average of the estimated dumping rates calculated for the examined respondents; and (C) a weighted average of the estimated dumping rates calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rates closest to (A) as the most appropriate rate for all other producers and exporters.[6] As a result of this comparison, we assigned a dumping margin of 4.52 percent to the non-examined companies.[7]

Final Results of Review

We determine the following weighted-average dumping margins for the period January 6, 2021, through June 30, 2022.

Exporter/producer	Weight-average dumping margin (percent)
Sentury Tire (Thailand) Co., Ltd	1.24
Sumitomo Rubber (Thailand) Co., Ltd	6.16
Review-Specific Average Rate Applicable to the Following Companies	
Deestone Corporation Ltd./Deestone Corporation Public Company Limited	4.52
General Rubber (Thailand) Co., Ltd	4.52
LLIT (Thailand) Co., Ltd	4.52
Maxxis International (Thailand) Co., Ltd	4.52
Otani Radial Company Limited	4.52
Prinx Chengshan Tire (Thailand) Co., Ltd	4.52
Sanpo (Thailand) Co., Ltd	4.52
Zhongce Rubber (Thailand) Co., Ltd	4.52

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[8]

Disclosure

Because we made no changes to the calculations performed in connection with the *Preliminary Results,* there are no new calculations to disclose, in accordance with 19 CFR 351.224(b), for these final results.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, 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. As Sentury's and SRT's weighted-average dumping margins are not zero or *de minimis* (*i.e.,* less than 0.50 percent), for these final results, Commerce has calculated importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to 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 an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.[9] To determine whether an importer-specific, per-unit assessment rate is *de minimis,* in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. Where either Sentury's and SRT's weighted-average dumping margin is zero or *de minimis,* or an importer-specific *ad valorem* assessment rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[10]

For entries of subject merchandise during the POR produced by either Sentury or SRT for which it did not know that the merchandise it sold to the intermediary (*e.g.,* reseller, trading company, or exporter) was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate (*i.e.,* 17.06 percent) [11] if there is no rate for the intermediate company(ies) involved in the transaction.[12]

[6] *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661 (September 1, 2020).

[7] *See* Memorandum, ''Calculation of the Rate for Non-Examined Companies for the Preliminary Results,'' dated July 30, 2023.

[8] *See* section 751(a)(2)(C) of the Act.

[9] *See* 19 CFR 351.212(b)(1).

[10] *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).

[11] *See Order,* 86 FR at 38012.

[12] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

For the companies that were not selected for individual review, we will assign an assessment rate based on the review-specific average rate, calculated as noted in the ''Rate for Non-Examined Respondents'' section above.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all 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, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for the reviewed companies will be equal to the weighted-average dumping margin established in the final results of this review; (2) for producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recently completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer is, then the cash deposit rate will be the rate established in the most recently completed segment for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 17.06 percent, the all-others rate established in the LTFV investigation in this proceeding.[13] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final 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 POR. 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.

[13] *See Order.*

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of 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 subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: January 23, 2024.

Abdelali Elouaradia,

Deputy 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. Discussion of the Issues
Comment 1: The Cohen's *d* Test
Comment 2: Whether To Rely on SRT Data To Calculate Sentury's Constructed Value (CV) Profit and Indirect Selling Expenses (ISE)
Comment 3: Whether To Revise Sentury Tire USA Inc.'s (Sentury USA) Inventory Carrying Costs (ICC) Calculation
Comment 4: Whether USWAREH1U Expense Is Included in the Calculation of Adjusted U.S. Prices for SRT
Comment 5: Whether To Grant SRT a Constructed Export Price (CEP) Offset
V. Recommendation

[FR Doc. 2024–01715 Filed 1–26–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Countervailing Duty Administrative Review; 2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies were provided to Jindal Poly Films Limited (Jindal), a producer and exporter of polyethylene terephthalate film, sheet, and strip (PET Film) from India, during the period of review (POR) January 1, 2021, through December 31, 2021.

DATES: Applicable January 29, 2024.

FOR FURTHER INFORMATION CONTACT: Stefan Smith, 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) 482–4342.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 2023, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register**.[1] This review covers one mandatory respondent, Jindal. For a complete description of events that occurred subsequent to the *Preliminary Results, see* the Issues and Decision Memorandum.[2]

Scope of the Order

The merchandise covered by the scope of the order is PET film. 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 the interested parties in their case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of topics discussed 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*.

Changes Since the Preliminary Results

Based on our analysis of comments from interested parties and the evidence

[1] *See Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results of Countervailing Duty Administrative Review; 2020–2021,* 88 FR 50834 (August 2, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memo (PDM).

[2] *See* Memorandum, ''Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip; 2021,'' dated concurrently with this memorandum (Issues and Decision Memorandum).

on the record, there have been no changes made to our adverse facts available (AFA) determination in the *Preliminary Results.* For a discussion of the issues, *see* 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 of the subsidy programs found to be countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[3] Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that the sole respondent did not act to the best of its ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[4] For a full description of the methodology underlying all of Commerce's conclusions, including our reliance, in part, on facts otherwise available, including adverse facts available, pursuant to sections 776(a) and (b) of the Act, *see* the Issues and Decision Memorandum.

Final Results of Administrative Review

As a result of this review, we determine that the following net countervailable subsidy rate exists for the period January 1, 2021, through December 31, 2021:

Company	Subsidy rate (percent *ad valorem*)
Jindal Poly Films Limited	116.96

Disclosure

Normally, Commerce discloses its calculations and analysis performed in connection with the final results to interested parties within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b). However, because we are applying total AFA in the calculation of the benefit for Jindal in these final results, and the rate is unchanged from the rate assigned in the *Preliminary Results,* there are no calculations to disclose.

[3] *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.

[4] *See* sections 776(a) and (b) of the Act.

Cash Deposit Requirements

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct U.S. Customs and Border Protection (CBP) to collect cash deposits of estimated countervailing duties in the amounts shown above for the above-listed company with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the all-others rate or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit requirements, effective upon the publication of these final results, shall remain in effect until further notice.

Assessment Rates

In accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and CBP shall assess, countervailing duties on all appropriate entries covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Administrative Protective Order

This notice also serves as a final 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 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

The final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: January 23, 2024.

Abdelali Elouaradia,

Deputy 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. Use of Facts Otherwise Available and Adverse Inferences
V. Discussion of the Issues
  Comment 1: Whether Jindal Failed To Cooperate to the Best of Its Ability
  Comment 2: Whether Commerce Acted Arbitrarily in Applying Adverse Facts Available (AFA) to Jindal
  Comment 3: Whether the AFA Rate is Reasonable
  Comment 4: Whether the Advanced Authorization Program (AAP) and Duty Drawback (DDB) Schemes are Countervailable
VI. Recommendation

[FR Doc. 2024–01714 Filed 1–26–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–821–825]

Phosphate Fertilizers From the Russian Federation: Notice of Court Decision Not in Harmony With the Final Determination of Countervailing Duty Investigation; Notice of Amended Final Determination and Amended Countervailing Duty Order

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

SUMMARY: On January 19, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *The Mosaic Company* v. *United States,* Consol. Court No. 21–00117, sustaining the U.S. Department of Commerce's (Commerce) remand redetermination pertaining to the countervailing duty (CVD) investigation of phosphate fertilizers from the Russian Federation (Russia) covering the period of investigation, January 1, 2019, through December 31, 2019. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final determination in that investigation, and that Commerce is amending the final determination and the resulting CVD order with respect to the countervailable subsidy rates assigned to Industrial Group Phosphorite LLC (EuroChem), Joint Stock Company Apatit (JSC Apatit), and all others.

DATES: Applicable January 29, 2024.

FOR FURTHER INFORMATION CONTACT: Shane Subler or 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) 482–6241 or (202) 482–4868, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 16, 2021, Commerce published its final determination in the CVD investigation of phosphate fertilizers from Russia.[1] Commerce calculated countervailable subsidy rates of 47.05 percent for EuroChem, 9.19 percent for JSC Apatit, and 17.20 percent for all other producers/exporters of phosphate fertilizers in Russia.[2] Commerce subsequently published the CVD order on phosphate fertilizers from Russia.[3]

JSC Apatit, EuroChem, and the petitioner[4] appealed Commerce's *Final Determination.* On September 2, 2022, the CIT remanded the *Final Determination* to Commerce, directing Commerce to: (1) adjust the final total sales calculation for EuroChem to the proper figures and explain the calculation; (2) either remove the added value-added tax (VAT) and import duties from the natural gas benchmark price or offer further explanation for why, when tier one and tier two benchmark prices are rejected, it was reasonable to add additional VAT and import duties; and (3) either explain why Commerce was unable to countervail recurring subsidies from mining licenses granted by the Government of Russia (GOR) prior to Russia's designation as a market economy on April 1, 2002, or abandon the cut-off date methodology.[5]

In the *First Remand Results,* issued in December 2022, Commerce adjusted the final total sales calculation to the proper figures and explained the calculation further, removed the added VAT and import duties from the natural gas benchmark price, and revised the subsidy calculation for the Provision of Mining Rights for Less Than Adequate Remuneration (LTAR) program by countervailing recurring subsidies from mining licenses granted by the GOR prior to Russia's designation as a market economy on April 1, 2002.[6] Consequently, Commerce made changes to EuroChem's and JSC Apatit's final subsidy rates from the investigation, as well as the all-others rate.[7]

In its *Second Remand Order,* issued on July 11, 2023, the CIT remanded certain aspects of Commerce's *First Remand Results* for further explanation or reconsideration.[8] Specifically, the CIT directed Commerce to: (1) explain why reconciling phosphate rock cost information to the financial statements of JSC Apatit's parent company, PhosAgro PJSC, was sufficient, or seek further information from JSC Apatit; (2) explain why it found a submission by EuroChem to be supported, and respond to the petitioner's specific objections regarding this submission; and (3) explain the selection of profit before tax in the benefit calculation for the GOR's provision of mining rights.[9]

On October 11, 2023, Commerce issued the *Second Remand Results.*[10] In the *Second Remand Results,* Commerce: (1) explained how JSC Apatit reconciled its phosphate rock cost information to its financial statements in a submission filed after the *First Remand Results;* (2) explained how a translated submission by EuroChem after the *First Remand Results* supported the cost reconciliations that it previously provided; and (3) explained why the use of profit before tax in the benefit calculation for the Provision of Mining Rights for LTAR program was appropriate.[11] Based on this analysis, Commerce made no changes to the subsidy rates calculated for EuroChem, JSC Apatit, and all others in the *First Remand Results.*[12] On January 19, 2024, the CIT sustained Commerce's *Second Remand Results.*[13]

Timken Notice

In its decision in *Timken,*[14] as clarified by *Diamond Sawblades,*[15] the Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's January 19, 2024, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Determination.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Determination

Because there is now a final court judgment, Commerce is amending its *Final Determination* with respect to EuroChem, JSC Apatit, and all others as follows:

Company	Subsidy rate[16] (percent *ad valorem*)
EuroChem[17]	23.77
JSC Apatit[18]	14.30
All Others	16.30

Amended CVD Order

Because there is now a final court decision, Commerce is amending its *Final Determination* and *Order.* As a result of this amended final determination, Commerce is hereby

[1] *See Phosphate Fertilizers from the Russian Federation: Final Affirmative Countervailing Duty Determination,* 86 FR 9479 (February 16, 2021) (*Final Determination*), and accompanying Issues and Decision Memorandum.

[2] *Id.,* 86 FR at 9480.

[3] *See Phosphate Fertilizers from the Kingdom of Morocco and the Russian Federation: Countervailing Duty Orders,* 86 FR 18037 (April 7, 2021) (*Order*).

[4] The petitioner is The Mosaic Company.

[5] *See The Mosaic Company, et al* v. *United States,* Consol. Court No. 21–00117, Slip Op. 22–103 (CIT September 2, 2022) (*First Remand Order*), at 33–34, 39, and 41.

[6] *See Final Results of Redetermination Pursuant to Court Remand, The Mosaic Company, Phosagro PJSC, JSC Apatit, Industrial Group Phosphorite LLC* v. *United States, The Mosaic Company, Phosagro PSJC, JSC Apatit, Industrial Group Phosphorite LLC,* Consol. Court No. 21–00117 (CIT September 2, 2022), dated December 16, 2022 (*First Remand Results*), available at *https://access.trade.gov/resources/remands/22-103.pdf.*

[7] *Id.* at 33.

[8] *See The Mosaic Company* v. *United States,* Consol. Court No. 21–00117, Slip Op. 23–99 (CIT July 11, 2023) (*Second Remand Order*).

[9] *See Second Remand Order* at 16–20.

[10] *See Final Results of Redetermination Pursuant to Court Remand, The Mosaic Company, Phosagro PJSC, JSC Apatit, Industrial Group Phosphorite LLC* v. *United States, The Mosaic Company, Phosagro PSJC, JSC Apatit, Industrial Group Phosphorite LLC,* Consol. Court No. 21–00117 (CIT July 11, 2023), dated October 11, 2023 (*Second Remand Results*), available at *https://access.trade.gov/resources/remands/23-99.pdf.*

[11] *See, generally, id.*

[12] *Id.* at 31.

[13] *See The Mosaic Company* v. *United States,* Consol. Court No. 21–00117, Slip Op. 24–04 (CIT January 19, 2024).

[14] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[15] *See Diamond Sawblades Manufacturers Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[16] *See First Remand Results* at 33.

[17] Commerce found the following companies to be cross-owned with EuroChem in the *Final Determination:* Mineral and Chemical Company EuroChem, JSC; NAK Azot, JSC; EuroChem Northwest, JSC; Joint Stock Company Kovdorksy GOK; EuroChem-Energo, LLC; EuroChem-Usolsky Potash Complex, LLC; EuroChem-BMU, LLC; JSC Nevinnomyssky Azot; and EuroChem Trading Rus, LLC. *See Final Determination,* 87 FR at 9480.

[18] Commerce found the following companies to be cross-owned with JSC Apatit in the *Final Determination:* PhosAgro PJSC; PhosAgro-Belgorod LLC; PhosAgro-Don LLC; PhosAgro-Kuban LLC; PhosAgro-Kursk LLC; PhosAgro-Lipetsk LLC; PhosAgro-Orel LLC; PhosAgro-Stavropol LLC; PhosAgro-Volga LLC; PhosAgro-SeveroZapad LLC; PhosAgro-Tambov LLC; and Martynovsk AgrokhimSnab LLC. *See Final Determination,* 87 FR at 9480.

updating JSC Apatit's and EuroChem's *ad valorem* subsidy rates. Additionally, because the all-others rate was based on JSC Apatit's and EuroChem's rates, Commerce is also updating the all-others rate.

Cash Deposit Requirements

For EuroChem and all others, Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). For JSC Apatit, however, the cash deposit rate has been superseded by the cash deposit rate calculated in the subsequent administrative review of the CVD order on phosphate fertilizers from Russia.[19] Thus, we are not implementing an amended cash deposit rate for JSC Apatit. This notice will not affect the current cash deposit rate for JSC Apatit.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced and/or exported by JSC Apatit and certain cross-owned companies [20] that were entered, or withdrawn from warehouse, during the period November 30, 2020, through December 31, 2021. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: January 23, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2024–01713 Filed 1–26–24; 8:45 am]

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[19] *See Phosphate Fertilizers from the Russian Federation: Final Results of Countervailing Duty Administrative Review; 2020–2021,* 88 FR 76182 (November 6, 2023).

[20] These cross-owned companies are PhosAgro Public Joint Stock Company; Limited Liability Company PhosAgro-Region; Limited Liability Company PhosAgro-Belgorod; Limited Liability Company PhosAgro-Don; Limited Liability Company PhosAgro-Kuban; Limited Liability Company PhosAgro-Lipetsk; Limited Liability Company PhosAgro-Kursk; Limited Liability Company PhosAgro-Orel; Limited Liability Company PhosAgro-Stavropol; Limited Liability Company PhosAgro-Volga; Limited Liability Company PhosAgro-SeveroZapad; Limited Liability Company PhosAgro-Tambov; and Limited Liability Company PhosAgro-Sibir.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–825]

Certain Paper Shopping Bags From Malaysia: Postponement of Final Determination of Sales at Less Than Fair Value Investigation

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

SUMMARY: The U.S. Department of Commerce (Commerce) is postponing the deadline for issuing the final determination in the less-than-fair-value (LTFV) investigation of certain paper shopping bags (shopping bags) from Malaysia until May 17, 2024, and is extending the provisional measures from a four-month period to a period of not more than six months.

DATES: Applicable January 29, 2024.

FOR FURTHER INFORMATION CONTACT: Daniel Alexander, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4313.

SUPPLEMENTARY INFORMATION:

Background

On June 20, 2023, Commerce initiated an LTFV investigation of imports of paper bags from Malaysia.[1] The period of investigation is April 1, 2022, through March 31, 2023. On January 3, 2024, Commerce published its preliminary determination in this LTFV investigation of paper bags from Malaysia.[2]

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(2) provide that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by the exporters or producers who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Further, 19 CFR 351.210(e)(2) requires that such postponement requests by exporters be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months, in accordance with section 733(d) of the Act.

On January 5, 2024, Nanwang Pack (M) Sdn. Bhd. (Nanwang) and Hexachase Packaging Sdn Bhd, Malaysia (Hexachase), mandatory respondents in this investigation, requested that Commerce postpone the deadline for final determination until no later than 135 days from the publication of the *Preliminary Determination,* and extend the application of the provisional measures from a four-month period to a period of not more than six months.[3] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination was affirmative; (2) the request for postponement was made by the exporters and producers who accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination until no later than 135 days after the date of publication of the *Preliminary Determination,* and extending the provisional measures from a four-month period to a period of not more than six months. Accordingly, Commerce will issue its final determination no later than May 17, 2024.

This notice is issued and published pursuant to section 735(a)(2) of the Act and 19 CFR 351.210(g).

Dated: January 19, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2024–01702 Filed 1–26–24; 8:45 am]

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[1] *See Certain Paper Shopping Bags from Cambodia, the People's Republic of China, Colombia, India, Malaysia, Portugal, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 41589 (June 27, 2023).

[2] *See Certain Paper Shopping Bags from Malaysia: Preliminary Affirmative Determination of Sales at Less-Than- Fair-Value,* 89 FR 333 (January 3, 2024) (*Preliminary Determination*).

[3] *See* Hexachase's Letter, ''Request to Postpone the Final Determination in the matter of case no A–557–825,'' dated January 5, 2024; *see also* Nanwang's Letter, ''Request to Extend Final Determination,'' dated January 5, 2023.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advisory Committee on Earthquake Hazards Reduction Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Earthquake Hazards Reduction (ACEHR or Committee) will hold an open meeting on Tuesday, March 26, 2024 from 8:30 a.m. to 5:00 p.m. Eastern Time and Wednesday, March 27, 2024, from 8:30 a.m. to 2:00 p.m. Eastern Time. The primary purpose of this meeting is for the Committee to receive agency responses for each recommendation in the 2023 ACEHR Biennial Report on the Effectiveness of the National Earthquake Hazards Reduction Program (NEHRP). The agenda may change to accommodate Committee business. The final agenda will be posted on the NEHRP website at *https://www.nehrp.gov/committees/meetings.htm.*

DATES: The ACEHR will meet on Tuesday, March 26, 2024, from 8:30 a.m. to 5:00 p.m. Eastern Time and Wednesday, March 27, 2024, from 8:30 a.m. to 2:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held in Room 3410 at the National Science Foundation (NSF), Hoffman Town Center, 2415 Eisenhower Avenue, Alexandria, Virginia 22314, with an option to participate via web conference. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Tina Faecke, Management and Program Analyst, NEHRP, Engineering Laboratory, NIST. Ms. Faecke's email address is *tina.faecke@nist.gov* and her phone number is (240) 477–9841.

SUPPLEMENTARY INFORMATION:

Authority: 42 U.S.C. 7704(a)(5) and the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. 1001 *et seq.* The Committee is composed of 12 members, appointed by the Director of NIST, who were selected for their established records of distinguished service in their professional community, their knowledge of issues affecting NEHRP, and to reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. In addition, the Chairperson of the U.S. Geological Survey Scientific Earthquake Studies Advisory Committee serves as an ex-officio member of the Committee.

Pursuant to the FACA, as amended, 5 U.S.C. 1001 *et seq.,* notice is hereby given that the ACEHR will meet on Tuesday, March 26, 2024, from 8:30 a.m. to 5:00 p.m. Eastern Time and Wednesday, March 27, 2024, from 8:30 a.m. to 2:00 p.m. Eastern Time. The meeting will be open to the public and will be held in-person and via web conference. Interested members of the public will be able to participate in the meeting from remote locations. The primary purpose of this meeting is for the Committee to receive agency responses for each recommendation in the 2023 ACEHR Biennial Report on the Effectiveness of NEHRP. The agenda may change to accommodate Committee business. The final agenda will be posted on the NEHRP website at *https://www.nehrp.gov/committees/meetings.htm.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's business are invited to request a place on the agenda. Approximately fifteen minutes will be reserved for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received. Questions from the public will not be considered during this period. This meeting will be recorded. Public comments can be provided via email or by web conference attendance. All those wishing to speak must submit their request by email to Tina Faecke at *tina.faecke@nist.gov* by 5:00 p.m. Eastern Time, March 12, 2024. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to participate are invited to submit written statements electronically by email to *tina.faecke@nist.gov.*

Anyone wishing to attend this meeting via web conference must register by 5:00 p.m. Eastern Time, March 12, 2024, to attend. Please submit your full name, the organization you represent (if applicable), email address, and phone number to Tina Faecke at *tina.faecke@nist.gov.* After pre-registering, participants will be provided with instructions on how to join the web conference. Any member of the public wishing to attend this meeting in person must pre-register to be admitted in the NSF building. Please submit your full name, estimated time of arrival, email address, and phone number to Tina Faecke (*tina.faecke@nist.gov*) by 5:00 p.m. Eastern Time, March 12, 2024. Non-U.S. citizens must submit additional information; please contact Tina Faecke. For participants attending in person, please note that federal agencies, including NSF, can only accept a state-issued driver's license or identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (Pub. L. 109–13), or by a state that has an extension for REAL ID compliance. NSF currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please visit *https://new.nsf.gov/about/visit#building.*

Tamiko Ford,

NIST Executive Secretariat.

[FR Doc. 2024–01611 Filed 1–26–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD693]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a one-day in person meeting of its Coastal Migratory Pelagics (CMP) Advisory Panel (AP).

DATES: The meeting will take place Tuesday, February 13, 2024, from 9 a.m. to 4 p.m., EST.

ADDRESSES: The meeting will be held at the Gulf Council Office. Please visit the Council's website by visiting *www.gulfcouncil.org* and clicking on the Meetings and Advisory Panel meetings tab, then CMP AP meeting for meeting materials.

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. Natasha Mendez-Ferrer, Fishery Biologist, Gulf of Mexico Fishery Management Council; *natasha.mendez@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday, February 13, 2024; 9 a.m.–4 p.m., EST

The meeting will begin with Election of Chair and Vice Chair, Adoption of Agenda, Approval of Minutes from the December 1, 2022 CMP Advisory Panel meeting; and, review of Scope of Work.

The AP will review the Coastal Migratory Pelagics Landings, Summary on Marine Recreational Information Program-Fishing Effort Survey (MRIP–FES) Pilot Study Results and SEDAR 81: Gulf Migratory Group Spanish Mackerel; including, presentations, background materials and the catch limit recommendations from the Council's Scientific and Statistical Committee (SSC).

The AP will review Draft Framework Amendment 14: Modifications to Gulf Spanish Mackerel Catch Limits; with presentations, document and provide recommendations. Staff will introduce and review the CMP Outreach Effort with the AP, receive Public Comment, and discuss any Other Business items.

—Meeting Adjourns

The meeting will be in-person. You may register to listen in to the webinar by visiting *www.gulfcouncil.org* and clicking on the Advisory Panel meeting on the calendar. The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Advisory Panel will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice 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 Council's intent to take-action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid or accommodations should be directed to Kathy Pereira, *kathy.pereira@gulfcouncil.org,* at least 5 days prior to the meeting date.

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

Dated: January 24, 2024.

Diane M. DeJames-Daly,

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

[FR Doc. 2024–01675 Filed 1–26–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD505]

Draft 2023 Marine Mammal Stock Assessment Reports

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

ACTION: Notice; request for comments and new information.

SUMMARY: NMFS reviewed the Alaska, Atlantic, and Pacific regional marine mammal stock assessment reports (SAR) in accordance with the Marine Mammal Protection Act (MMPA). SARs for marine mammals in the Alaska, Atlantic, and Pacific regions were revised according to new information. NMFS solicits public comments on the draft 2023 SARs. NMFS is also requesting new information for strategic stocks that were not updated in 2023.

DATES: Comments must be received by April 29, 2024.

ADDRESSES: The 2023 draft SARs are available in electronic form via the internet at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports.*

Hard copies of the Alaska Regional SARs may be requested from Nancy Young, Alaska Fisheries Science Center; copies of the Atlantic, Gulf of Mexico, and Caribbean Regional SARs may be requested from Elizabeth Josephson, Northeast Fisheries Science Center; and copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center (see **FOR FURTHER INFORMATION CONTACT** below).

You may submit comments or new information, identified by NOAA–NMFS–2024–0019, via electronic submission through the Federal e-Rulemaking Portal:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and type NOAA–NMFS–2024–0019 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on *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: Zachary Schakner, Office of Science and Technology, 301–427–8106, *Zachary.Schakner@noaa.gov;* Nancy Young, 206–526–4297, *Nancy.Young@noaa.gov,* regarding Alaska regional stock assessments; Elizabeth Josephson, 508–495–2362, *Elizabeth.Josephson@noaa.gov,* regarding Atlantic, Gulf of Mexico, and Caribbean regional stock assessments; or Jim Carretta, 858–546–7171, *Jim.Carretta@noaa.gov,* regarding Pacific regional stock assessments.

SUPPLEMENTARY INFORMATION:

Background

Section 117 of the MMPA (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (USFWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States, including the U.S. Exclusive Economic Zone (EEZ). These SARs must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury (M/SI) from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial SARs were completed in 1995.

The MMPA requires NMFS and USFWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every three years for non-strategic stocks. The term ''strategic stock'' means a marine mammal stock: (A) for which the level of direct human-caused mortality exceeds the potential biological removal level or PBR (defined by the MMPA as the maximum number of animals, not including natural mortalities, that may

be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population); (B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act (ESA) within the foreseeable future; or (C) which is listed as a threatened species or endangered species under the ESA or is designated as depleted under the MMPA. NMFS and USFWS are required to revise a SAR if the review indicates that the status of the stock has changed or can be more accurately determined.

In order to ensure that marine mammal SARs constitute the best scientific information available, the updated SARs under NMFS' jurisdiction are peer-reviewed within NMFS Science Centers and by members of three regional independent scientific review groups established under the MMPA to independently advise NMFS and the USFWS. As a result of the time involved in the assessment of new scientific information, revision, and peer-review of the SARs, the period covered by the 2023 draft SARs is 2017 through 2021.

NMFS reviewed the status of all marine mammal strategic stocks and considered whether significant new information was available for all other stocks under NMFS' jurisdiction. As a result of this review, NMFS revised or developed new reports for 66 stocks in the Alaska, Atlantic, and Pacific regions to incorporate new information. The 2023 revisions to the SARs consist primarily of updated or revised human-caused mortality and serious injury (M/SI) estimates and updated abundance estimates, the proposed designation of two new stocks: Sato's beaked whale and the Central Oregon harbor porpoise, and proposed Pacific Islands stock name changes.

NMFS solicits public comments on the draft 2023 SARs. To ensure NMFS is aware of new information relevant to all strategic stocks, NMFS also requests new information for strategic stocks that were not updated in 2023. Specifically, new relevant information could include peer-reviewed information on human-caused M/SI, fishery interactions, abundance, distribution, population structure, and other information on emerging concerns for strategic stocks that could be incorporated into the SARs.

Alaska Reports

NMFS reviewed new information for 24 existing stocks (including all of the strategic stocks) in the Alaska Region for the 2023 SAR cycle and updated information or developed new reports for five stocks contained in five SARs under NMFS' jurisdiction: three strategic stocks (Western stock of Steller sea lions, Eastern North Pacific stock of North Pacific right whales, and Western Arctic stock of bowhead whales) and two non-strategic stocks (Eastern stock of Steller sea lions and Sato's beaked whales stock). Information on the remaining Alaska region stocks can be found in the final 2022 SARs (Young *et al.* 2023).

A list of the new or revised SARs in 2023 for the Alaska region is presented in table 1, followed by a non-exhaustive summary of the more notable issues or revisions for particular stocks within the Alaska region.

TABLE 1—LIST OF MARINE MAMMAL STOCKS IN THE ALASKA REGION REVISED IN 2023

Strategic stocks	Non-strategic stocks
• Steller sea lion, Western *	• Sato's beaked whale.**
• North Pacific right whale, Eastern North Pacific	• Steller sea lion, Eastern.*
• Bowhead whale, Western Arctic.*	

* Includes updated abundance estimates.
** Denotes a new stock.

Sato's Beaked Whale

A new SAR is proposed for a newly described species, Sato's beaked whale (Yamada *et al.* 2019), which inhabits the western and central North Pacific. The Sato's beaked whale was identified as a new species in the northern Pacific Ocean based on morphometric and genetics data of a previously undescribed species (Brownell and Kasuya 2021, Fedutin *et al.* 2020, Yamada *et al.* 2019). Current information about its distribution indicates that it occurs from Japanese waters across the northern Pacific to at least the Alaskan Peninsula. The newly identified species did not yet have a stock designation. NMFS followed the process outlined in its procedural directive 02–204–03: Reviewing and Designating Stocks and Issuing Stock Assessment Reports under the Marine Mammal Protection Act (NMFS 2019) and determined that it is unknown whether the species contains multiple demographically independent populations. Therefore, NMFS proposes designating Sato's beaked whale species as a single stock. Estimates of abundance are not available for this stock, and no human-caused MS/I of Sato's beaked whales was reported between 2017 and 2021. This stock is not strategic.

Atlantic Reports

In 2023, NMFS reviewed all stocks in the Atlantic region under NMFS' jurisdiction (including the Atlantic Ocean, Gulf of Mexico, and U.S. territories in the Caribbean) for new information. Thirty-one stocks from the Western North Atlantic were revised (table 2), primarily with updated abundance estimates based on the 2021 Atlantic Marine Assessment Program for Protected Species large vessel surveys, and some were also updated with recent bycatch estimates. One stock changed in status to ''strategic,'' the Western North Atlantic (WNA) short-finned pilot whale. This particular stock has oscillated between strategic and non-strategic over the years, depending on the latest abundance and bycatch estimates.

A list of the new or revised SARs in 2023 for the Atlantic region is presented in table 2, followed by a non-exhaustive summary of the more notable issues or revisions in the Atlantic region. Information on the remaining Atlantic region stocks can be found in the final 2022 SARs (Hayes *et al.* 2023).

TABLE 2—LIST OF MARINE MAMMAL SARS IN THE ATLANTIC REGION REVISED IN 2023

Strategic stocks	Non-strategic stocks
• North Atlantic right whale *	• Atlantic spotted dolphin, Western North Atlantic.*
• Gulf of Mexico common bottlenose dolphin, Barataria Bay Estuarine System.	• Clymene dolphin, Western North Atlantic.*
• Short-finned pilot whale, Western North Atlantic *	• Common bottlenose dolphin, Western North Atlantic Offshore.*
• Fin whale, Western North Atlantic	• Dwarf sperm whale, Western North Atlantic.*
• Sei whale, Nova Scotia	• False killer whale, Western North Atlantic.*
• Sperm whale, North Atlantic *	• Fraser's dolphin, Western North Atlantic.
	• Melon-headed whale, Western North Atlantic.
	• Pantropical spotted dolphin, Western North Atlantic.*
	• Pygmy killer whale, Western North Atlantic.
	• Pygmy sperm whale, Western North Atlantic.*
	• Rough-toothed dolphin, Western North Atlantic.
	• Spinner dolphin, Western North Atlantic.*
	• Harbor porpoise, Gulf of Maine/Bay of Fundy.*
	• Common minke whale, Canadian East Coast.
	• Cuvier's beaked whale, Western North Atlantic.*
	• Blainville's beaked whale, Western North Atlantic.*
	• Gervais' beaked whale, Western North Atlantic.*
	• Sowerby's beaked whale, Western North Atlantic.*
	• True's beaked whale, Western North Atlantic.*
	• Risso's dolphin, Western North Atlantic.*
	• Long-finned pilot whale, Western North Atlantic.
	• Atlantic white-sided dolphin, Western North Atlantic.
	• Common dolphin, Western North Atlantic.*
	• Striped dolphin, Western North Atlantic.*
	• Gray seal, Western North Atlantic.*

* Includes updated abundance estimates.

North Atlantic Right Whale, Western North Atlantic

The new abundance estimate calculated for the western North Atlantic right whale stock is 340 (95% CI: 333–348) individuals as of December 2021. This updated estimate is based on a published state-space model of the sighting histories of individual whales identified using photo-identification techniques (Pace *et al.* 2017, Pace 2021). A more recent estimate is available in Linden (2023), though this is not included in the draft 2023 SAR being released for public comment as it was not available at the time of drafting and for review by the Atlantic Scientific Review Group. The species' recovery continues to be inhibited by a low reproductive rate and the impacts of the ongoing Unusual Mortality Event declared in 2017 (NMFS 2023), which, for the covered time period (2017–2021), includes 98 dead, seriously injured, or sublethally injured or ill whales (*i.e.,* morbidity cases, which are now included in the SAR), primarily due to vessel strikes and entanglements in fishing gear.

Humpback Whale, Gulf of Maine

In 2023, NMFS is not revising SAR for the Gulf of Maine stock of humpback whales. Since the last revision of this SAR in 2019, NMFS has been reviewing and considering the implications of recent information on stock structure of humpback whales in the North Atlantic. This includes the 2016 global Status Review of humpback whales that led to the revised ESA listing of the species, based on identification of distinct population segments (DPS) (Bettridge *et al.* 2015, NOAA 2016a), as well as ongoing work by the International Whaling Commission, Scientific Committee, and Sub-committee on Northern Hemisphere whale stocks. Given this recent and forthcoming information, NMFS is evaluating the stock structure of North Atlantic humpback whales under the MMPA following the process laid out in its procedural directive 02–204–03: Reviewing and Designating Stocks and Issuing Stock Assessment Reports under the Marine Mammal Protection Act (NMFS 2019). A draft, updated SAR will be published once NMFS completes this process.

Gulf of Mexico Common Bottlenose Dolphin, Barataria Bay Estuarine System Stock

In 2023, NMFS revised the SAR for the Barataria Bay Estuarine System (BBES) stock of common bottlenose dolphins as recommended by the Atlantic Scientific Review Group to incorporate recent publications regarding health assessment data and projected outcomes for the proposed mid-Barataria sediment diversion (MBSD) project. Recent health assessment data indicate disease conditions have persisted and worsened in Barataria Bay dolphins presumably exposed to oil from the *Deepwater Horizon* (DWH) oil spill (DeGuise *et al.* 2021; Smith *et al.* 2022; Schwacke *et al.* 2022), and it is suggested this population is at a minimum point in its recovery trajectory (Schwacke *et al.* 2022). In addition, results of modeling work by Thomas *et al.* (2022) predict there will be greater declines in population size resulting from the MBSD than those caused by the DWH oil spill, which could potentially result in a decline and functional extinction of the BBES stock of common bottlenose dolphins.[1]

Pacific Reports

In 2023, NMFS reviewed all 85 stocks in the Pacific region (waters along the U.S. West Coast, within waters surrounding the main and Northwestern Hawaiian Islands, and within waters surrounding U.S. territories in the Western Pacific) for new information and revised SARs for thirty stocks (8

[1] On February 9, 2018, Congress passed the Bipartisan Budget Act of 2018 (Budget Act), Public Law 115–123, which included a requirement that the Secretary of Commerce, as delegated to the Assistant Administrator of the National Marine Fisheries Service, issue a waiver of the Marine Mammal Protection Act moratorium and prohibitions for three projects included in the 2017 Louisiana Comprehensive Master Plan for a Sustainable Coast. The Mid-Barataria Sediment Diversion was identified as one of those projects. As required, NOAA Fisheries issued the waiver on March 15, 2018. More information on the waiver can be found at *https://www.fisheries.noaa.gov/action/marine-mammal-protection-act-waiver-select-louisiana-coastal-master-plan-projects.*

strategic and 22 non-strategic). A list of revised SARs in 2023 for the Pacific region is presented in table 3, followed by a non-exhaustive summary of the more notable issues or revisions in the Pacific region. Information on the remaining Pacific region stocks can be found in the final 2022 SARs (Carretta *et al.* 2023). Following the development of the draft 2023 SARs, NMFS published new population information for the Eastern North Pacific (ENP) gray whale. We plan to revise the ENP gray whale SAR in the 2024 cycle to incorporate the updated information.

TABLE 3—LIST OF MARINE MAMMAL SARS IN THE PACIFIC REGION REVISED IN 2023

Strategic stocks	Non-strategic stocks
• Monk seal, Hawai'i *	• Harbor seal, Washington Northern Inland Waters.*
• Killer whale, Eastern North Pacific Southern Resident *	• Harbor seal, Southern Puget Sound.*
• Sperm whale, CA/OR/WA *	• Harbor seal, Hood Canal.*
• Blue whale, Eastern North Pacific	• Harbor porpoise, Northern CA/Southern OR.*
• Fin whale, CA/OR/WA	• Harbor porpoise, Central Oregon.**
• Sei whale, Eastern North Pacific *	• Harbor porpoise, Northern OR/Washington Coast.*
• False killer whale, Hawai'i Pelagic *	• Minke whale, CA/OR/WA.
• False killer whale, Main Hawaiian * Islands Insular	• Rough-toothed dolphin, Hawai'i.*
	• Risso's dolphin, Hawai'i.*
	• Common bottlenose dolphin, Hawai'i Pelagic.*
	• Common bottlenose dolphin, Kaua'i and Ni'ihau.*
	• Common bottlenose dolphin, O'ahu.*
	• Common bottlenose dolphin, Maui Nui.*
	• Common bottlenose dolphin, Hawai'i Island.*
	• Pantropical spotted dolphin, Hawai'i Pelagic.*
	• Pantropical spotted dolphin, O'ahu.
	• Pantropical Spotted dolphin, Maui Nui.
	• Pantropical spotted dolphin, Hawai'i Island.
	• Striped dolphin, Hawai'i Pelagic.*
	• False killer whale, Northwest Hawaiian Islands.
	• Short-finned pilot whale, Hawai'i.*
	• Bryde's whale, Hawai'i.*

* Includes updated abundance estimates.
** Denotes a new stock.

West Coast Harbor Porpoise Stocks

The Northern California-Southern Oregon harbor porpoise stock is proposed to be split into two stocks: the Northern California-Southern Oregon and Central Oregon harbor porpoise stocks. In proposing this revised stock structure, NMFS followed the process outlined in its procedural directive 02–204–03: Reviewing and Designating Stocks and Issuing Stock Assessment Reports under the Marine Mammal Protection Act (NMFS 2019). Genetic evidence (Morin *et al.* 2021) supported delineation of two demographically independent populations (DIPs) within waters of Northern California and Southern Oregon. NMFS evaluated the conservation and management benefits and risks associated with managing the harbor porpoise in this region as two stocks, and determined there was greater potential conservation benefit under the MMPA if managed as two stocks rather than a single stock. Thus, the Northern California-Southern Oregon harbor porpoise stock is proposed to be split into two stocks corresponding with the DIPs identified in Morin *et al.* (2021). The draft SARs present abundance estimates for the proposed Northern California-Southern Oregon and Central Oregon harbor porpoise stocks, derived from aerial surveys.

Pacific Islands Stock Name Changes

As an ongoing effort to reflect indigenous knowledge, NMFS is proposing to rename Pacific Island marine mammal stocks to align with the original Hawaiian names of various islands and places where the stocks reside. For the 2023 SAR cycle, NMFS proposes to change the names of stocks with '4-Islands' in the name to 'Maui Nui.' Maui Nui includes the islands of Moloka'i, Lāna'i, Maui, and Kaho'olawe. In the future, NMFS plans to propose additional changes to include transitioning from the English name for some of the islands and atolls in the northwestern Hawaiian Islands to the original Hawaiian name.

Erratum: Response to Public Comment for 2022 SARs

We note that due to a technical error in processing, we did not include in the list of significant comments on the draft 2022 SARs a joint comment submitted by Natural Resources Defense Council, Endangered Habitats League, Turtle Island Restoration Network, American Cetacean Society-Oregon Chapter, Cape Perpetua Collaborative, Center for Biological Diversity, Ocean Defenders Alliance, Defenders of Wildlife, Whale and Dolphin Conservation, and Oceana. However, the comment was addressed in a response published elsewhere in the 2022 Final Stock Assessment Reports **Federal Register** notice (comment 17—*https://www.federalregister.gov/documents/2023/08/11/2023-17219/final-2022-marine-mammal-stock-assessment-reports*).

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Dated: January 22, 2024.

Evan Howell,

Director, Office of Science and Technology, National Marine Fisheries Service.

[FR Doc. 2024–01653 Filed 1–26–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Technical Information Service

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Extension of Currently Approved Information Collection; Comment Request; Limited Access Death Master File Systems Safeguards Attestation Forms

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on November 1, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Technical Information Service (NTIS), Commerce.

Title: NTIS Limited Access Death Master Files (LADMF) Systems Safeguards Attestation Forms.

OMB Control Number: 0692–0016.

Form Number(s): NTIS FM100A and NTIS FM100B.

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

Number of Respondents: NTIS expects to receive approximately 260 applications and renewals for certification every three (3) years for access to the Limited Access Death Master File.

Average Hours per Response: 3 hours.

Burden Hours: 780.

Needs and Uses: NTIS issued a final rule establishing a program through which persons may become eligible to obtain access to Death Master File (DMF) information about an individual within three years of that individual's death. The final rule was promulgated under section 203 of the Bipartisan Budget Act of 2013, Public Law 113–67 (Act). The Act prohibits the Secretary of Commerce (Secretary) from disclosing DMF information during the three-year period following an individual's death (Limited Access DMF), unless the person requesting the information has been certified to access the Limited Access DMF pursuant to certain criteria in a program that the Secretary establishes. The Secretary delegated the authority to carry out section 203 to the Director of NTIS.

To accommodate the requirements of the final rule, NTIS is using both the ACAB Systems Safeguards Attestation Form and the AG or IG Systems Safeguards Attestation Form.

The ACAB Systems Safeguards Attestation Form requires an ''Accredited Conformity Assessment Body'' (ACAB), as defined in the final rule, to attest that a Person seeking certification or a Certified Person seeking renewal of certification has information security systems, facilities and procedures in place to protect the security of the Limited Access DMF, as required under section 1110.102(a)(2) of the final rule. The ACAB Systems Safeguards Attestation Form collects information based on an assessment by the ACAB conducted within three years prior to the date of the Person or Certified Person's submission of a completed certification statement under section 1110.101(a) of the final rule. This collection includes specific requirements of the final rule, which the ACAB must certify are satisfied, and the provision of specific information by the ACAB, such as the date of the assessment and the auditing standard(s) used for the assessment.

Section 1110.501(a)(2) of the final rule provides that a State or local government office of AG or IG and a Person or Certified Person that is a department or agency of the same State or local government, respectively, are not considered to be owned by a common ''parent'' entity under section 1110.501(a)(1)(ii) for the purpose of determining independence, and attestation by the AG or IG is possible. The AG or IG Systems Safeguards

Attestation Form is for the use of a State or local government AG or IG to attest on behalf of a State or local government department or agency Person or Certified Person. The AG or IG Systems Safeguards Attestation Form requires the State or local government AG or IG to attest that a Person seeking certification or a Certified Person seeking renewal of certification has information security systems, facilities and procedures in place to protect the security of the Limited Access DMF, as required under section 1110.102(a)(2) of the final rule. The AG or IG Systems Safeguards Attestation Form collects information based on an assessment by the State or local government AG or IG conducted within three years prior to the date of the Person or Certified Person's submission of a completed certification statement under section 1110.101(a) of the final rule. This collection includes specific requirements of the final rule, which the State or local government AG or IG must certify are satisfied, and the provision of specific information by the State or local government AG or IG, such as the date of the assessment.

Affected Public: Accredited Conformity Assessment Bodies and State or local government Auditors General or Inspectors General attesting that a Person seeking certification or a Certified Person seeking renewal of certification under the final rule for the ''Certification Program for Access to the Death Master File'' has information security systems, facilities and procedures in place to protect the security of the Limited Access DMF, as required by the final rule.

Frequency: Every three (3) years.

Respondent's Obligation: Voluntary.

Legal Authority: Section 203 of the Bipartisan Budget Act of 2013, Public Law 113–67.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB control number 0692–0016.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–01689 Filed 1–26–24; 8:45 am]

BILLING CODE 3510–04–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; Patent Processing

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

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651–0031 (Patent Processing). The purpose of this notice is to allow 60 days for public comment preceding submission of this information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before March 29, 2024.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email: InformationCollections@uspto.gov.* Include ''0651–0031 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Justin Isaac, Information Collection Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email to *raul.tamayo@uspto.gov* with ''0651–0031 comment'' in the subject line. Additional information about this information collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 131 to examine an application for patent and, when appropriate, issue a patent. The USPTO is also required to publish patent applications, with certain exceptions, promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under title 35, United States Code (''eighteen-month publication''). Certain situations may arise which require that additional information be supplied in order for the USPTO to further process the patent or application. The USPTO administers the statutes through various sections of the rules of practice in 37 CFR part 1.

During the processing of an application for a patent, the applicant or the applicant's representative may be required to submit additional information to the USPTO concerning the examination of a specific application. The specific information required to be submitted includes: requests for extension of time, abandonment of applications and the revival of abandoned applications, disclaimers, appeals, petitions, expedited examination of design applications, requests for continued examinations, requests to inspect, copy, access patent applications, and transmittal forms.

The information in this collection is used by the USPTO to continue the processing of the patent or application to ensure that applicants are complying with the patent regulations and to aid in the prosecution of the application. This also includes situations that require additional information in order for the USPTO to further process the patent or application.

II. Method of Collection

The items in this information collection can be submitted through the USPTO patent electronic filing system (Patent Center), the USPTO's online filing and viewing system for patent applications and related documents. The USPTO also will accept submissions by mail, hand delivery, and facsimile.

III. Data

OMB Control Number: 0651–0031.

Forms: (AIA—America Invents Act; SB—Specimen Book; PTOL = Patent and Trademark Office Legal)

- PTO/AIA/22 (Petition for Extension of Time under 37 CFR 1.136(a))
- PTO/AIA/24 (Express Abandonment under 37 CFR 1.138)
- PTO/AIA/24B (Petition for Express Abandonment to Obtain a Refund)
- PTO/AIA/33 (Pre-Appeal Brief Request for Review)
- PTO/AIA/40 (Request for Correction in a Patent Application Relating to Inventorship or an Inventor Name, or Order of Names, Other than in a Reissue Application (37 CFR 1.48)
- PTO/AIA/41 (Request to Correct or Update the Name of the Applicant Under 37 CFR 1.45(c)(1), or Change the Applicant Under 37 CFR 1.46(c)(2))
- PTO/AIA/67 (Power to Inspect/Copy—For Applications Filed On or After September 16, 2012)
- PTO/AIA/96 (Statement Under 37 CFR 3.73(c))
- PTO/SB/08a (Information Disclosure Statement by Applicant)
- PTO/SB/08b (Information Disclosure Statement by Applicant)
- PTO/SB/17i (Processing Fee under 37 CFR 1.17(i) Transmittal)
- PTO/SB/21 (Transmittal Form)
- PTO/SB/22 (Petition for Extension of Time under 37 CFR 1.136(a))
- PTO/SB/24 (Express Abandonment under 37 CFR 1.138)
- PTO/SB/24B (Petition for Express Abandonment to Obtain a Refund)
- PTO/SB/25 (Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection Over a Pending ''Reference'' Application)
- PTO/SB/26 (Terminal Disclaimer to Obviate a Double Patenting Rejection over a ''Prior'' Patent)
- PTO/SB/27 (Request for Expedited Examination of a Design Application (37 CFR 1.155))
- PTO/SB/30 (Request for Continued Examination (RCE) Transmittal)
- PTO/SB/33 (Pre-Appeal Brief Request for Review)
- PTO/SB/35 (Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i))
- PTO/SB/36 (Rescission of Previous Nonpublication Request (35 U.S.C. 122(b)(2)(B)(ii) and, if applicable, Notice of Foreign Filing (35 U.S.C. 122(b)(2)(B)(iii))
- PTO/SB/37 (Request Deferral of Examination 37 CFR 1.103(d))
- PTO/SB/38 (Request to Retrieve Electronic Priority Applications(s) Filed with Nonparticipating Office(s) That is Available in a Participating Office (37 CFR 1.55(i)(4)))
- PTO/SB/39 (Authorization or Rescission of Authorization to Permit Access to Application-as-filed by Participating Offices)
- PTO/SB/43 (Disclaimer in a Patent under 37 CFR 1.321(a))
- PTO/SB/63 (Terminal Disclaimer to Accompany Petition)
- PTO/SB/64 (Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(a))
- PTO/SB/64a (Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))
- PTO/SB/67 (Power to Inspect/Copy—For Applications Filed Before September 16, 2012)
- PTO/SB/68 (Request for Access to an Abandoned Application under 37 CFR 1.14)
- PTO/SB/91 (Deposit Account Order Form)
- PTO/SB/92 (Certificate of Mailing or Transmission under 37 CFR 1.8)
- PTO/SB/96 (Statement under 37 CFR 3.73(b))
- PTO/SB/130 (Petition to Make Special Based on Age for Advancement of Examination under 37 CFR 1.102(c)(1))
- PTOL/413A (Applicant Initiated Interview Request Form)
- PTO–2053–A/B (Notice Under 37 CFR 1.251—Pending Application)
- PTO–2054–A/B (Notice Under 37 CFR 1.251—Abandoned Application)
- PTO–2055–A/B (Notice Under 37 CFR 1.251—Patent)

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector.

Respondent's Obligation: Required to obtain or retain benefits.

Estimated Number of Annual Respondents: 2,435,597 respondents per year.

Estimated Number of Annual Responses: 2,435,597 responses per year.

Estimated Time per Response: The USPTO estimates that it will take respondents between 2 minutes (0.03 hours) and 8 hours to submit items in this information collection depending on the instrument used. 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: 535,466 hours.

Estimated Total Annual Respondent Hourly Cost Burden: $170,503,027.

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents (a)	Responses per respondent (b)	Estimated annual responses (a) × (b) = (c)	Estimated time for response (hours) (d)	Estimated burden (hour/year) (c) × (d) = (e)	Rate [1] ($/hour) (f)	Estimated annual respondent cost burden (e) × (f) = (g)
1	Information Disclosure Statements (IDS) that do not require the fee set forth in 37 CFR 1.17(p).	694,000	1	694,000	0.20 (12 minutes)	138,800	$447	$62,043,600
2	Transmittal Form	517,000	1	517,000	0.20 (12 minutes)	103,400	122	12,614,800
3	Petition for Extension of Time under 37 CFR 1.136(a).	192,884	1	192,884	0.40 (24 minutes)	77,154	122	9,412,788
4	Express Abandonment under 37 CFR 1.138.	2,000	1	2,000	0.08 (5 minutes)	160	122	19,520
5	Statutory Disclaimers (including terminal disclaimers).	49,950	1	49,950	0.25 (15 minutes)	12,488	447	5,582,136
6	Request for Expedited Examination of a Design Application.	7,227	1	7,227	0.25 (15 minutes)	1,807	447	807,729

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS—Continued

Item No.	Item	Estimated annual respondents (a)	Responses per respondent (b)	Estimated annual responses (a) × (b) = (c)	Estimated time for response (hours) (d)	Estimated burden (hour/year) (c) × (d) = (e)	Rate [1] ($/hour) (f)	Estimated annual respondent cost burden (e) × (f) = (g)
7	Petition for Revival of an Application for Patent Abandoned Unintentionally.	7,024	1	7,024	1	7,024	447	3,139,728
8	Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing.	125	1	125	1	125	447	55,875
9	Requests to Access, Inspect, and Copy.	1,000	1	1,000	0.25 (15 minutes)	250	122	30,500
10	Deposit Account Order Form.	55,000	1	55,000	0.25 (15 minutes)	13,750	122	1,677,500
11	Certificates of Mailing or Transmission.	450,000	1	450,000	0.03 (2 minutes)	13,500	122	1,647,000
12	Statement Under 37 CFR 3.73(c) (AIA), 37 CFR 3.83(b) (pre-AIA).	146,000	1	146,000	0.25 (15 minutes)	36,500	447	16,315,500
13	Non-publication Request	16,000	1	16,000	0.25 (15 minutes)	4,000	447	1,788,000
14	Rescission of Previous Non-publication Request (35 U.S.C. § 122(b)(2)(B)(ii) and, if applicable, Notice of Foreign Filing (35 U.S.C. § 122(b)(2)(B)(iii).	500	1	500	0.25 (15 minutes)	125	447	55,875
15	USPTO Patent Electronic Filing System Copy of Application for Publication.	1	1	1	2.50	3	122	366
16	Copy of File Content Showing Redactions.	3	1	3	4	12	447	5,364
17	Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not).	10	1	10	2	20	122	2,440
18	Request for Continued Examination (RCE) Transmittal).	132,000	1	132,000	0.30 (18 minutes)	39,600	447	17,701,200
19	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d).	630	1	630	0.20 (12 minutes)	126	447	56,322
20	Request for Voluntary Publication or Republication (includes publication fee for republication).	450	1	450	0.20 (12 minutes)	90	122	10,980
21	Applicant Initiated Interview Request Form.	50,000	1	50,000	0.40 (24 minutes)	20,000	447	8,940,000
22	Processing Fee Under 37 CFR 1.17(i) Transmittal.	100	1	100	0.08 (5 minutes)	8	447	3,576
23	Request to Retrieve Electronic Priority Application (s) Under 37 CFR 1.55(i)(4).	10,000	1	10,000	0.25 (15 minutes)	2,500	447	1,117,500
24	Authorization or Rescission of Authorization to Permit Access to Application-as-filed by Participating Offices Under 37 CFR 1.14(h).	6,000	1	6,000	0.25 (15 minutes)	1,500	447	670,500
25	Petition for Express Abandonment to Obtain a Refund.	2,050	1	2,050	0.20 (12 minutes)	410	447	183,270
26	Pre-Appeal Brief Request for Review.	6,700	1	6,700	5	33,500	447	14,974,500
27	Request for Corrected Filing Receipt.	44,000	1	44,000	0.08 (5 minutes)	3,520	122	429,440

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS—Continued

Item No.	Item	Estimated annual respondents (a)	Responses per respondent (b)	Estimated annual responses (a) × (b) = (c)	Estimated time for response (hours) (d)	Estimated burden (hour/year) (c) × (d) = (e)	Rate [1] ($/hour) (f)	Estimated annual respondent cost burden (e) × (f) = (g)
28	Petition to Make Special Based on Age for Advancement of Examination under 37 CFR 1.102(c)(1).	2,100	1	2,100	2	4,200	447	1,877,400
29	Filing a submission after final rejection (see 37 CFR 1.129(a)).	43	1	43	8	344	447	153,768
30	Correction of inventorship after first office action on the merits.	3,300	1	3,300	0.75 (45 minutes)	2,475	447	1,106,325
31	Request for correction in a patent application relating to inventorship or an inventor name, or order of names, other than in a reissue application (37 CFR 1.48).	18,500	1	18,500	0.75 (45 minutes)	13,875	447	6,202,125
32	Request to correct or update the name of the applicant under 37 CFR 1.46(c)(1), or change the applicant under 37 CFR 1.46(c)(2).	21,000	1	21,000	0.20 (12 minutes)	4,200	447	1,877,400
Totals		2,435,597		2,435,597		535,466		170,503,027

[1] 2023 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F–41. The USPTO uses the average billing rate for intellectual property work in all firms which is $447 per hour (*https://www.aipla.org/home/news-publications/economic-survey*). 2022 National Utilization and Compensation Survey Report published by the National Association of Legal Assistants (NALA); pg. 38. The USPTO uses the average billing rate for paralegals/paraprofessionals, which is $122 per hour (*https://nala.org/paralegal-info/*).

Estimated Total Annual Non-Hourly Cost Burden: $363,821,958. There is no capital start-up, maintenance costs, or recordkeeping costs associated with this information collection. However, there is non-hour cost burden in the way of filing fees and postage costs. The total annual (non-hour) respondent cost burden for this collection is estimated to be $363,821,958, which includes $363,579,616 in filing fees, and $242,342 in postage.

Filing Fees

The fees in this information collection are listed in the table below. The fee for Request for Prioritized Examination has no counterpart in the hourly cost table due to that form being exempt from the PRA.

TABLE 2—FILING FEES

Item No.	Fee code	Item	Estimated annual responses (a)	Filing fee ($) (b)	Non-hourly cost burden (a) × (b) = (c)
1	1806	Information Disclosure Statements (IDS) that require the fee set forth in 37 CFR 1.17(p) (undiscounted).	85,540	$260	$22,240,400
1	2806	IDS that require the fee set forth in 37 CFR 1.17(p) (small entity).	22,173	104	2,305,992
1	3806	IDS that require the fee set forth in 37 CFR 1.17(p) (micro entity).	624	52	32,448
3	1251	One-month Extension of Time under 37 CFR 1.136(a) (undiscounted).	62,740	220	13,802,800
3	2251	One-month Extension of Time under 37 CFR 1.136(a) (small entity).	29,039	88	2,555,432
3	3251	One-month Extension of Time under 37 CFR 1.136(a) (micro entity).	3,509	44	154,396
3	1252	Two-month Extension of Time under 37 CFR 1.136(a) (undiscounted).	23,560	640	15,078,400
3	2252	Two-month Extension of Time under 37 CFR 1.136(a) (small entity).	15,484	256	3,963,904
3	3252	Two-month Extension of Time under 37 CFR 1.136(a) (micro entity).	1,922	128	246,016
3	1253	Three-month Extension of Time under 37 CFR 1.136(a) (undiscounted).	20,377	1,480	30,157,960
3	2253	Three-month Extension of Time under 37 CFR 1.136(a) (small entity).	23,002	592	13,617,184

TABLE 2—FILING FEES—Continued

Item No.	Fee code	Item	Estimated annual responses (a)	Filing fee ($) (b)	Non-hourly cost burden (a) × (b) = (c)
3	3253	Three-month Extension of Time under 37 CFR 1.136(a) (micro entity).	2,558	296	757,168
3	1254	Four-month Extension of Time under 37 CFR 1.136(a) (undiscounted).	1,810	2,320	4,199,200
3	2254	Four-month Extension of Time under 37 CFR 1.136(a) (small entity).	2,196	928	2,037,888
3	3254	Four-month Extension of Time under 37 CFR 1.136(a) (micro entity).	266	464	123,424
3	1255	Five-month Extension of Time under 37 CFR 1.136(a) (undiscounted).	3,039	3,160	9,603,240
3	2255	Five-month Extension of Time under 37 CFR 1.136(a) (small entity).	3,176	1,264	4,014,464
3	3255	Five-month Extension of Time under 37 CFR 1.136(a) (micro entity).	206	632	130,192
5	1814	Statutory Disclaimers (including terminal disclaimers) (undiscounted).	36,105	170	6,137,850
5	2814	Statutory Disclaimers (including terminal disclaimers) (small entity).	13,175	170	2,239,750
5	3814	Statutory Disclaimers (including terminal disclaimers) (micro entity).	670	170	113,900
6	1802	Request for Expedited Examination of a Design Application (undiscounted).	713	1,600	1,140,800
6	2802	Request for Expedited Examination of a Design Application (small entity).	1,426	640	912,640
6	3802	Request for Expedited Examination of a Design Application (micro entity).	5,088	320	1,628,160
7	1453	Petition for Revival of an Application for Patent Abandoned Unintentionally (undiscounted).	2,323	2,100	4,878,300
7	2453	Petition for Revival of an Application for Patent Abandoned Unintentionally (small entity).	3,388	840	2,845,920
7	3453	Petition for Revival of an Application for Patent Abandoned Unintentionally (micro entity).	1,313	420	551,460
8	1453	Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (undiscounted).	94	2,100	197,400
8	2453	Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (small entity).	19	840	15,960
8	3453	Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (micro entity).	12	420	5,040
16	1808	Copy of File Content Showing Redactions (undiscounted).	1	140	140
16	2808	Copy of File Content Showing Redactions (small entity)	1	140	140
16	3808	Copy of File Content Showing Redactions (micro entity)	1	140	140
18	1801	Request for Continued Examination (RCE) Transmittal (First Request) (undiscounted).	70,734	1,360	96,198,240
18	2801	Request for Continued Examination (RCE) Transmittal (First Request) (small entity).	19,673	544	10,702,112
18	3801	Request for Continued Examination (RCE) Transmittal (First Request) (micro entity).	1,992	272	541,824
18	1820	Request for Continued Examination (RCE) Transmittal (Second and Subsequent Requests) (undiscounted).	29,979	2,000	59,958,000
18	2820	Request for Continued Examination (RCE) Transmittal (Second and Subsequent Requests) (small entity).	8,985	800	7,188,000
18	3820	Request for Continued Examination (RCE) Transmittal (Second and Subsequent Requests) (micro entity).	637	400	254,800
19	1830	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d) (undiscounted).	354	140	49,560
19	2830	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d) (small entity).	245	56	13,720
19	3830	Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d) (micro entity).	31	28	868

TABLE 2—FILING FEES—Continued

Item No.	Fee code	Item	Estimated annual responses (a)	Filing fee ($) (b)	Non-hourly cost burden (a) × (b) = (c)
20	1803	Request for Voluntary Publication or Republication (includes publication fee for republication) (undiscounted).	157	140	21,980
20	2803	Request for Voluntary Publication or Republication (includes publication fee for republication) (small entity).	19	140	2,660
20	3803	Request for Voluntary Publication or Republication (includes publication fee for republication) (micro entity).	4	140	560
22	1830	Processing Fee Under 37 CFR 1.17(i) Transmittal (undiscounted).	56	140	7,840
22	2830	Processing Fee Under 37 CFR 1.17(i) Transmittal (small entity).	39	56	2,184
22	3830	Processing Fee Under 37 CFR 1.17(i) Transmittal (micro entity).	5	28	140
29	1810	For each additional invention to be examined (see 37 CFR 1.129(b)) (undiscounted).	1	880	880
29	2810	For each additional invention to be examined (see 37 CFR 1.129(b)) (small entity).	1	352	352
29	3810	For each additional invention to be examined (see 37 CFR 1.129(b)) (micro entity).	1	176	176
29	1809	Filing a submission after final rejection (see 37 CFR 1.129(a)) (undiscounted).	17	880	14,960
29	2809	Filing a submission after final rejection (see 37 CFR 1.129(a)) (small entity).	20	352	7,040
29	3809	Filing a submission after final rejection (see 37 CFR 1.129(a)) (micro entity).	6	176	1,056
30	1819	Correction of inventorship after first office action on the merits (undiscounted).	793	640	507,520
30	2819	Correction of inventorship after first office action on the merits (small entity).	617	256	157,952
30	3819	Correction of inventorship after first office action on the merits (micro entity).	60	128	7,680
31	1830	Request for correction in a patent application relating to inventorship or an inventor name, or order of names, other than in a reissue application (37 CFR 1.48) (non-provisional) (undiscounted).	7,122	140	997,080
31	2830	Request for correction in a patent application relating to inventorship or an inventor name, or order of names, other than in a reissue application (37 CFR 1.48) (non-provisional) (small entity).	5,180	56	290,080
31	3803	Request for correction in a patent application relating to inventorship or an inventor name, or order of names, other than in a reissue application (37 CFR 1.48) (non-provisional) (micro entity).	648	28	18,144
31	1807	Request for correction in a patent application relating to inventorship or an inventor name, or order of names, other than in a reissue application (37 CFR 1.48) (provisional).	5,550	50	277,500
N/A	1817	Request for prioritized examination (undiscounted)	6,481	4,200	27,220,200
N/A	2817	Request for prioritized examination (small entity)	7,491	1,680	12,584,880
N/A	3817	Request for prioritized examination (micro entity)	1,028	840	863,520
Totals			533,476		363,579,616

Postage Costs

Although the USPTO prefers that the items in this information collection be submitted electronically, responses may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that 1% of the 2,435,597 items will be submitted in the mail resulting in 24,356 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail flat rate legal envelope, will be $9.95. Therefore, the USPTO estimates that the total mailing costs for this information collection is $242,342.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) 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;

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

(d) Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, USPTO cannot guarantee that it will be able to do so.

Justin Isaac,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2024–01722 Filed 1–26–24; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2023–0047]

Supplemental Guidance for Examination of Design Patent Applications Related to Computer-Generated Electronic Images, Including Computer-Generated Icons and Graphical User Interfaces

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Examination guidance; correction.

SUMMARY: The United States Patent and Trademark Office (USPTO) published in the **Federal Register** on November 17, 2023, supplemental guidance to be used by USPTO personnel in determining whether a design claim including a computer-generated electronic image is directed to statutory subject matter. This notice provides the deadline for written comments. Additionally, the USPTO has corrected Examples 2, 4, and 5 in Section (V) of the supplemental guidance published in the **Federal Register** to reflect certain formatting (*i.e.,* underlining and strikethrough) necessary to understand the examples. The supplemental guidance, including the examples, will be incorporated into the Manual of Patent Examining Procedure in due course.

FOR FURTHER INFORMATION CONTACT: Erin Harriman, Senior Legal Advisor, Office of Patent Legal Administration, at 571–272–7747; or Carolyn Kosowski, Senior Legal Advisor, Office of Patent Legal Administration, at 571–272–7688.

SUPPLEMENTARY INFORMATION: The USPTO published in the **Federal Register** on November 17, 2023, supplemental guidance to be used by USPTO personnel in determining whether a design claim including a computer-generated electronic image is directed to statutory subject matter. See *Supplemental Guidance for Examination of Design Patent Applications Related to Computer-Generated Electronic Images, Including Computer-Generated Icons and Graphical User Interfaces,* 88 FR 80277. This notice provides the deadline for submitting written comments through the Federal eRulemaking Portal at *www.regulations.gov.* The deadline for submitting comments is November 18, 2024. Please see the **ADDRESSES** section in the November 17, 2023 notice for instructions on how to submit comments.

Correction

In the **Federal Register** of November 17, 2023, in FR Doc. 2023–25473, on page 80277, in the third column, correct the **DATES** caption to read:

DATES: This supplemental guidance is applicable as of November 17, 2023. Comments must be received by November 18, 2024, to ensure consideration.

In addition, the USPTO has corrected Examples 2, 4, and 5 in Section (V) of the supplemental guidance published in the **Federal Register** to reproduce certain formatting (*i.e.,* underlining and strikethrough) in the text necessary to understand the examples. A PDF version of the examples, which contains the formatting, has been posted on the Examination Guidance and Training Materials page under 35 U.S.C. 171 at *www.uspto.gov/patents/laws/examination-policy/examination-guidance-and-training-materials.*

The supplemental guidance, including the examples, will be incorporated into the Manual of Patent Examining Procedure in due course.

Katherine Kelly Vidal,

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

[FR Doc. 2024–01717 Filed 1–26–24; 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; Patent Examiner Employment Application

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 November 15, 2023 during a 60-day comment period (88 FR 78332). This notice allows for an additional 30 days for public comment.

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

Title: Patent Examiner Employment Application.

OMB Control Number: 0651–0042.

Needs and Uses: In the current employment environment, life science and engineering graduates are in great demand. The United States Patent and Trademark Office (USPTO) is in direct competition with the private industry for the same caliber of candidates with the requisite knowledge and skills to perform patent examination work. This information collection covers online applications to the USPTO for entry level patent examiner positions. More specifically, the collection covers the respondent data gathered from the applications. The USPTO posts the relevant positions online and collects applicant information via the USA Staffing System.

The USA Staffing online application collects supplemental information to a candidate's USAJOBS application. This information assists USPTO Human Resource Specialists and Hiring Managers in determining whether an applicant possesses the basic qualification requirements for a patent examiner position. From the information collected, the USA Staffing system creates an electronic real-time candidate inventory on applicants' expertise and technical knowledge, which allows USPTO to immediately review applications from multiple

applicants. The use of such automated online systems during recruitment allows USPTO to remain competitive, meet hiring goals, and fulfill the Agency's Congressional commitment to reduce the pendency rate for the examination of patent applications.

Form Numbers: None.

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Individuals or households.

Respondent's Obligation: Required to obtain or maintain benefits.

Frequency: On occasion.

Estimated Number of Annual Respondents: 7,226 respondents.

Estimated Number of Annual Responses: 7,226 responses.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 30 minutes (0.5 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: 3,613 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 or the OMB Control Number, 0651–0042.

Further information can be obtained by:

• *Email: InformationCollection@uspto.gov*. Include ''0651–0042 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. 2024–01721 Filed 1–26–24; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2023–HQ–0013]

Submission for OMB Review; Comment Request

AGENCY: U.S. Army Corps of Engineers (USACE), Department of the Army, 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 February 28, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Lane Purvis, (571) 372–0460, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil*.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Silver Jackets Program Nomination and Awards; ENG Form 6128; OMB Control Number 0710–0023.

Type of Request: Revision.

Number of Respondents: 54.

Responses per Respondent: 1.

Annual Responses: 54.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 18.

Needs and Uses: The information collection request is necessary to obtain input and feedback from our state government partners regarding the performance and achievement of state-led Silver Jackets teams. Through the National Flood Risk Management Program, USACE supports the Silver Jackets Program, which has teams in all states and several territories, bringing together multiple state, federal, local, and tribal agencies to learn from one another and work together to reduce risk from floods and other natural hazards. The ENG Form 6128, ''Silver Jackets State Team of the Year,'' provides the vehicle for Silver Jackets teams to nominate their fellow teams for consideration for the Silver Jackets Team of the Year Award. The responses to this information collection are used to recognize excellent work by teams, thank the team partners for their efforts, and provide incentives for future team participation.

Affected Public: Individuals or households; State, Local or Tribal Government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Matthew Oreska.

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: Mr. Lane Purvis.

Requests for copies of the information collection proposal should be sent to Mr. Purvis at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil*.

Dated: January 23, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–01652 Filed 1–26–24; 8:45 am]

BILLING CODE 6001–FR–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: Monday, February 5, 2024, open to the public from 2:30 p.m. to 5 p.m. (EST).

ADDRESSES: The meeting will be held 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: Due to circumstances beyond the control of the DFO and the DoD, the BoR USUHS was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its February 5, 2024 meeting. Accordingly, the Advisory Committee Management Officer for the DoD, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of chapter 10 of title 5, United States Code (U.S.C.) (commonly known as the ''Federal Advisory Committee Act'' or ''FACA''), 5 U.S.C. 552b (commonly known as the ''Government in the Sunshine Act''), and 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 brief from the President of USU; an update from the Assistant Secretary of Defense for Health Affairs; an update from the Liaison Committee of Medical Education Site Survey visit; and a brief on the USU Facilities Master Plan.

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 virtually and is open to the public from 2:30 p.m. to 5 p.m. Members of the public wishing to attend the meeting 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: January 23, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–01656 Filed 1–26–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0114]

Submission for OMB Review; Comment Request

AGENCY: National Defense University, Chairman of the Joint Chiefs of Staff (CJCS), 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 February 28, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Lane Purvis, (571) 372–0460, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Master's Degree Application Form for International Students; OMB Control Number: 0704–0599.

Type of Request: Extension.

Number of Respondents: 120.

Responses per Respondent: 1.

Annual Responses: 120.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 30.

Needs and Uses: This form is used to collect the information required to admit international students to a National Defense University (NDU) master's degree program. The respondents are prospective international students who wish to be admitted to an NDU master's degree program. They respond to this information collection in partial fulfillment of NDU application and admissions requirements. The completed collection instrument is processed by the NDU registrars and a committee of NDU faculty who review the application in consideration of admission to a master's degree program. The successful effect of this information collection is to satisfy NDU master's degree application requirements for international students so that an admissions decision can be made.

Affected Public: Individuals or households.

Frequency: Annually.

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: Mr. Lane Purvis.

Requests for copies of the information collection proposal should be sent to

Mr. Purvis at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 23, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–01651 Filed 1–26–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0115]

Submission for OMB Review; Comment Request

AGENCY: National Defense University, Chairman of the Joint Chiefs of Staff (CJCS), 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 February 28, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Lane Purvis, (571) 372–0460, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: National Defense University (NDU) Foreign Delegation Visit Request; OMB Control Number: 0704–0600.

Type of Request: Extension.

Number of respondents: 45.

Responses per Respondent: 1.

Annual Responses: 45.

Average Burden per Response: 1 hour.

Annual Burden Hours: 45.

Needs and Uses: Foreign delegation visits help to conduct analysis for regional and DoD academic accreditations, create reports for University leadership to aid in the development of effective curricula, and facilitate academic completion requirements. The foreign visit request form is primarily used to collect information on visiting delegations for protocol purposes and to ensure proper logistic support for the visiting delegation. The respondents in our collection are generally Foreign Nationals visiting the NDU to meet with NDU leadership. The collection instrument is a PDF document sent over email. Respondents access the PDF directly and return via email. Once the document is returned, the information is used to create a customized visit for the delegation and informs a read ahead document for NDU leadership. Information and electronic records are maintained in the NDU Enterprise Information System (NEIS), the NDU network. The NDU NEIS encompasses all hardware and software utilized to support the academic and business information hosted in university-owned systems.

Affected Public: Individuals or households.

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: Mr. Lane Purvis.

Requests for copies of the information collection proposal should be sent to Mr. Purvis at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 23, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–01654 Filed 1–26–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0010]

Proposed Collection; Comment Request

AGENCY: Pentagon Force Protection Agency (PFPA), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Pentagon Force Protection 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 March 29, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 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 Pentagon Force

Protection Agency, 9000 Defense Pentagon, Suite 5B890, ATTN: Christopher Layman, Washington, DC 20301–9000, or call 703–692–9101.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Computer Aided Dispatch and Record Management System (CAD/RMS); OMB Control Number: 0704–0522.

Needs and Uses: The information collection requirement is necessary to obtain information regarding incidents that occur at the Pentagon and other facilities under the jurisdiction of the Pentagon Force Protection Agency.

Affected Public: Individuals or households.

Annual Burden Hours: 231.

Number of Respondents: 693.

Responses per Respondent: 1.

Annual Responses: 693.

Average Burden per Response: 20 minutes.

Frequency: On occasion.

Dated: January 23, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–01646 Filed 1–26–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2023–HQ–0019]

Submission for OMB Review; Comment Request

AGENCY: Department of the Navy (DoN), 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 February 28, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Lane Purvis, (571) 372–0460, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Law Enforcement Officers Safety Act (LEOSA) Credential Program; SECNAV Form 5580/1; OMB Control Number: 0703–0067.

Type of Request: Extension.

Number of Respondents: 900.

Responses per Respondent: 1.

Annual Responses: 900.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 450.

Needs and Uses: The Navy and the U.S. Marine Corps are requesting OMB approval of the information collection to verify and validate eligibility of separated and retired DoN law enforcement officers to ship, transport, possess or receive Government-issued or private firearms or ammunition. This will also verify and validate eligibility of separated, and retired DoN law enforcement officers to receive DoN endorsed law enforcement credentials, to include LEOSA credentials.

Affected Public: Individuals or households; State, Local or Tribal Government.

Frequency: Annually.

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: Mr. Lane Purvis.

Requests for copies of the information collection proposal should be sent to Mr. Purvis at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 23, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–01650 Filed 1–26–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Navy

Department of the Navy Science and Technology Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of the Navy (DoN), 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 Department of the Navy Science and Technology Board (DON S&T Board) will take place.

DATES: A closed meeting will be held on Monday, January 29, 2024 to January 31, 2024 from 8 a.m. to 5 p.m. Hawaii standard time (HST). A closed meeting is required because the discussions will involve classified national security matters and technical processes.

ADDRESSES: The closed meeting will be held at Naval Station Pearl Harbor, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Ms. Maria Proestou, Designated Federal Officer (DFO), Office of the Assistant Secretary of the Navy (Research, Development & Acquisition), Pentagon, Washington, DC 20350–1000, 703–692–8278, *donstb.fct@navy.mil.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5 U.S.C. (commonly known as the Federal Advisory Committee Act (FACA), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), title 41 Code of Federal Regulations (CFR) 102–3.140 and 102–3.150 and covered by 5 U.S.C. 552b(c)(l). Due to circumstances beyond the control of the Designated Federal Officer, the Department of the Navy Science and Technology Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its January 29 through 31, 2024 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting: The purpose of the meeting will be to collaborate with Navy and Marine Corps operational leadership on opportunities to expand warfighting advantage through technologies that have the potential to disrupt the nature of warfighting. The Board members will conduct classified interviews with subject matter experts to support the Board's tasking. Leveraging information

gathered, the Board will assess work in progress to develop practical recommendations in support of SECNAV tasking.

Agenda: On January 29 through January 31, 2024, the Board will visit facilities and meet with relevant military and civilian officials in and around Pearl Harbor. There will be classified strategy and requirements discussions relevant to topics tasked by SECNAV.

Availability of Materials for the Meeting: A copy of the agenda or any updates to the agenda for the meeting from January 29 through January 31, 2024, as well as supporting documents, can be found on the website: *https://www.facadatabase.gov*.

Meeting Accessibility: Pursuant to section 552b(c)(l) of 5 U.S.C., this meeting will be closed to the public. If there are any questions or concerns, please send them to *donstb.fct@navy.mil* no later than, January 29, 2024.

Written Statements: Pursuant to 41 CFR 102–3.105 and 102–3.140, and section 1009(a)(3) of title 5 U.S.C., written statements to the committee may be submitted at any time or in response to a stated planned meeting agenda by email to *donstb.fct@navy.mil* with the subject line, ''Comments for DON STB Meeting.''

Dated: January 24, 2024.

J.E. Koningisor,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2024–01690 Filed 1–26–24; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0190]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Historically Black Colleges and Universities (HBCU) Scholar 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 an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before February 28, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Elyse Jones-Gillespie, (202) 453–5627.

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: HBCU Scholar Recognition Program.

OMB Control Number: 1894–0016.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 202.

Total Estimated Number of Annual Burden Hours: 707.

Abstract: This program was designed to recognize current HBCU students for their dedication to academics, leadership and civic engagement. Nominees were asked to submit a nomination package containing a signed nomination form, unofficial transcripts, short essay, resume, and endorsement letter. Items in this package provide the tools necessary to select current HBCU students who are excelling academically and making differences in their community.

Dated: January 24, 2024.

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. 2024–01665 Filed 1–26–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for Fiscal Year (FY) 2024 for the Fulbright-Hays Doctoral Dissertation Research Abroad (DDRA) Fellowship Program, Assistance Listing Number 84.022A. This notice relates to the approved information collection under OMB control number 1840–0005.

DATES:

Applications Available: January 29, 2024.

Deadline for Transmittal of Applications: March 29, 2024.

Pre-Application Webinar Information: The Department will hold a pre-application meeting via webinar for prospective applicants. Detailed information regarding this webinar will be provided on the Doctoral Dissertation Research Abroad website at *https://www2.ed.gov/programs/iegpsddrap/applicant.html.*

For additional information about the Department's discretionary grant process, especially for new potential grantees unfamiliar with grantmaking at the Department, please review the Education Grants: Application, Management, & Closeout website at *www2.ed.gov/fund/grant/about/grantmaking/index.html.*

The resources will be especially helpful for individuals who are exploring the Department's funding opportunities for the first time.

ADDRESSES: The addresses pertinent to this competition—including the addresses for obtaining and submitting an application—can be found under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Amy Marrion, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 453–5628. Email: *DDRA@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to

access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Fulbright-Hays DDRA Fellowship Program provides opportunities for doctoral students to engage in dissertation research abroad in modern foreign languages and area studies. The program is designed to contribute to the development and improvement of the study of modern foreign languages and area studies in the United States.

Priorities: This notice contains one absolute priority and three competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(ii), the absolute priority and Competitive Preference Priorities 1 and 2 are from the regulations for this program (34 CFR 662.21(d)). Competitive Preference Priority 3 is from the Secretary's Notice of Final Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on December 10, 2021 (86 FR 70612) (Supplemental Priorities).

Absolute Priority: For FY 2024, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Specific Geographic Regions of the World.

A research project that focuses on one or more of the following geographic areas: Africa, East Asia, Southeast Asia and the Pacific Islands, South Asia, the Near East, Central and Eastern Europe and Eurasia, and the Western Hemisphere (excluding the United States and its territories).

Competitive Preference Priorities: For FY 2024, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award an additional two points to an application that meets Competitive Preference Priority 1; an additional two points to an application that meets Competitive Preference Priority 2; and an additional two points to an application that meets Competitive Preference Priority 3 (up to 6 additional points possible).

These priorities are:

Competitive Preference Priority 1—Focus on Less Commonly Taught Languages (2 points).

A research project that focuses on any modern foreign language except French, German, or Spanish.

Competitive Preference Priority 2—Thematic Focus on Academic Fields (2 points).

Applications that propose dissertation research projects in modern foreign languages and area studies with an academic focus on any of the following academic fields: science (including climate change), technology, engineering (including infrastructure studies), mathematics, computer science, education (comparative or international), international development, political science, public health (including epidemiology), or economics.

Competitive Preference Priority 3—Promoting Equity in Student Access to Educational Resources and Opportunities (2 points).

The project will be implemented by one of the following entities:

- Historically Black colleges and universities (as defined in this notice).
- Minority-serving institutions (as defined in this notice).
- Tribal colleges and universities (as defined in this notice).

Definitions: The following definitions are from the Supplemental Priorities.

Historically Black colleges and universities means colleges and universities that meet the criteria set outset out in 34 CFR 608.2.

Minority-serving institutions means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the Higher Education Act of 1965 (HEA).

Tribal colleges or universities has the meaning ascribed it in section 316(b)(3) of the HEA.

Program Authority: 22 U.S.C. 2452(b)(6).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 662. (e) The Supplemental Priorities.

Note: The open licensing requirement in 2 CFR 3474.20 does not apply to this program.

II. Award Information

Type of Award: Discretionary grants redistributed as fellowships to individual beneficiaries.

Estimated Available Funds: $10,311,000 for the Fulbright-Hays Overseas programs. We intend to use an estimated $3,277,596 for the DDRA competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $15,000–$60,000.

Estimated Average Size of Awards: $36,418.

Estimated Number of Awards: 90.

Note: The Department is not bound by any estimates in this notice.

Project Period: The institutional project period is 18 months. Doctoral students may request funding for a period of no less than 6 months and no more than 12 months.

III. Eligibility Information

1.a. *Eligible Applicants:* Institutions of higher education (IHEs). Eligible doctoral students submit their individual research narratives and application forms to the project director at their home IHE, who then compiles all the research narratives from the doctoral students and incorporates them into the institutional grant application package that the institution submits electronically through the Department's G6 system on behalf of all doctoral student applicants.

b. *Individuals Eligible to Receive a Fellowship:* An individual is eligible to receive a fellowship if the individual: is a citizen or national of the United States; or is a permanent resident of the United States; is a graduate student in good standing at an institution of higher education; and, when the fellowship period begins, is admitted to candidacy in a doctoral degree program in modern foreign languages and area studies at that institution; is planning a teaching career in the United States upon completion of his or her doctoral program; and possesses sufficient foreign language skills to carry out the dissertation research project.

2.a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Administrative Cost Limitation:* In accordance with 34 CFR 663.30(d), the Secretary awards the institution an administrative allowance of $100 for each fellowship listed in the grant award document.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in the grantee's application.

4. *Other:* Under 34 CFR 662.22(b), no DDRA Fellowship Program applicant concurrently may receive a grant from the Fulbright U.S. Student Program (FUSP) and a grant from the Fulbright-Hays DDRA Fellowship Program. For this reason, when applying for a grant under the Fulbright-Hays DDRA Fellowship Program, a doctoral student must indicate in the application whether they have also applied for a FUSP grant. At any time during the U.S. Department of Education Fulbright-Hays DDRA Fellowship Program competition process, if a doctoral student accepts a fellowship award from the FUSP, or the FUSP disperses funds to provide training services to a doctoral student, that doctoral student is automatically deemed ineligible for consideration for a grant under the Fulbright-Hays DDRA Fellowship Program. Also, if the FUSP notifies the Fulbright-Hays DDRA Fellowship Program that it has awarded funds or provided training to a potential recipient of a Fulbright-Hays DDRA Fellowship, the Department will automatically deem the doctoral student ineligible for further consideration. Doctoral students thus should notify the person listed under **FOR FURTHER INFORMATION CONTACT** prior to accepting any grant support or training from the FUSP.

IV. Application and Submission Information

1. *Address to Request Application Package:* Both IHEs and doctoral student applicants can obtain an application package via the internet or from the Education Publications Center (ED Pubs). To obtain a copy via the internet, use the following address: *www.g6.ed.gov.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a TDD or a TTY, call, toll free: 1–877–576–7734.

If you request an application package from ED Pubs, be sure to identify this program as follows: Assistance Listing Number 84.022A.

2. *Submission Dates and Times:*

Submit applications for grants under the program electronically using *www.g6.ed.gov.* For information (including dates and times) about how to submit your application electronically, please refer to *Other Submission Requirements.*

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

3. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 10 pages and the bibliography to no more than two pages and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet, budget section, including the narrative budget justification; the assurance and certifications; or the one-page abstract, the resumes, the biography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

6. *Unique Entity Identifier (UEI), Taxpayer Identification Number (TIN), and System for Award Management (SAM):*

To do business with the Department, you must—

a. Have a UEI and a TIN;

b. Register both your UEI and TIN with SAM, the Government's primary registrant database;

c. Provide your UEI and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your UEI and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can submit an application through G6.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your UEI is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your UEI and TIN in SAM or updating your existing SAM account, please visit *https://sam.gov/content/help.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless an IHE qualifies for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Submit applications for grants under the Fulbright-Hays DDRA Fellowship Program, Assistance Listing Number 84.022A, electronically using the G6 system, accessible through the Department's G6 site at: *www.g6.ed.gov.* While completing the electronic application, both the IHE and the doctoral student applicant will be entering data online that will be saved into a database. Neither the IHE nor the doctoral student applicant may email an electronic copy of a grant application to us.

Please note the following:

• The process for submitting applications electronically under the Fulbright-Hays DDRA Fellowship Program requires several steps. The following is a brief overview of the process; however, all applicants should review the detailed description of the application process in the application package. In summary, the major steps are:

(1) IHEs must email the name of the institution and the full name and email address of the project director to *DDRA@ed.gov.* We suggest that applicant IHEs submit this information no later than 2 weeks prior to the application deadline date to ensure that they obtain access to G6 well before that date;

(2) Doctoral students must complete their individual applications and submit them to their home IHE project director using G6;

(3) Persons providing references for individual doctoral students must complete and submit reference forms for the doctoral students to the IHE project director using G6; and

(4) The IHE project director must officially submit the IHE's application, including all eligible individual doctoral student applications, reference forms, and other required forms, using G6.

• The IHE must complete the electronic submission of the grant application by 11:59:59 p.m., Eastern Time, on the application deadline date. G6 will not accept an application for this competition after 11:59:59 p.m., Eastern Time, on the application deadline date. Therefore, we strongly recommend that both the IHE and the doctoral student applicant not wait until close to the application deadline date to begin the application process. The table below shows the days and times that the G6 website will be available.

G6 HOURS OF OPERATION IN EASTERN TIME

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Unavailable from 03:00 p.m.–11:59 p.m.	Unavailable from 12:00 a.m.–06:00 a.m.	Available 24 hours.	Unavailable from 09:00 p.m.–11:59 p.m.	Unavailable from 12:00 a.m.–06:00 a.m.	Available 24 hours.	Available 24 hours.

• Doctoral student applicants will not receive additional points because they submit their applications in electronic format, nor will we penalize the IHE or the doctoral student applicant if the applicant qualifies for an exception to the electronic submission requirement, as described elsewhere in this section, and submits an application in paper format.

• IHEs must upload all application documents electronically, including the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• Both IHEs and doctoral student applicants must upload their applications, including the required narrative sections and all required attachments to their applications, as files in a read-only flattened Portable Document Format (PDF), meaning any fillable documents must be saved and submitted as non-fillable PDF files. Do not upload any interactive or fillable PDF files. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will be unable to review that material. Please note that this will likely result in your application not being considered for funding. The Department will not convert material from other formats to PDF.

• Submit doctoral student transcripts electronically through the G6 system.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After the individual doctoral student electronically submits their application to the IHE, the doctoral student will receive an automatic acknowledgment from the G6 system. After the person designated to provide a reference submits the reference electronically to the Department on behalf of a doctoral student applicant, they will receive an automatic acknowledgment from the G6 system. After the applicant IHE submits its application to the Department, including all eligible individual doctoral student applications, the applicant IHE will receive an automatic acknowledgment from G6 that will include a unique PR/Award number for the IHE's application.

• Within 3 working days after submitting its electronic application, the applicant IHE must—

(1) Print the SF 424 from G6;

(2) Have the Authorizing Representative sign the SF 424 form;

(3) Place the PR/Award number in the upper right-hand corner of the hard-copy signature page of the SF 424; and

(4) Email the signed SF 424 to *DDRA@ed.gov.*

• We may request that you provide us hard copies with original signatures for other forms in the application at a later date.

Application Deadline Date Extension in Case of System Unavailability: If an IHE is prevented from electronically submitting its application on the application deadline date because the G6 system is unavailable, we will grant the IHE an extension until 11:59:59 p.m., Eastern Time, the following business day to enable the IHE to transmit its application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) The IHE is a registered user of the G6 system and the IHE has initiated an electronic application for this competition; and

(2) G6 is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 11:59 p.m., Eastern Time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting the IHE an extension. To request this extension or to confirm our acknowledgment of any system unavailability, an IHE may contact either (1) the person listed under **FOR FURTHER INFORMATION CONTACT** or (2) the e-Grants help desk at 1–888–336–8930. If G6 is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an email will be sent to all registered users who have initiated a G6 application. Extensions referred to in this section apply only to the unavailability of the G6 system.

b. *Submission of Paper Applications.*

We discourage paper applications, but if electronic submission is not possible (*e.g.,* you do not have access to the internet), you must provide a written statement that you intend to submit a paper application. Send this written statement no later than 2 weeks before the application deadline date (14 calendar days or, if the fourteenth

calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday) to Amy Marrion, U.S. Department of Education, 400 Maryland Ave. SW, Room 258–24, Washington, DC 20202–4260. Telephone: (202) 453–5628. Email: *DDRA@ed.gov.* If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date.

If you submit a paper application, you must have, and include in your application, a UEI and you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, OFO/G6 Functional Application Team, Mail Stop 5C231, Attention: 84.022A, 400 Maryland Avenue SW, Washington, DC 20202–4260.

The IHE must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If the IHE mails its application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, the IHE should check with its local post office.

We will not consider applications postmarked after the application deadline date.

c. *Note for Mail or Hand Delivery of Paper Applications:* If an IHE mails or hand delivers its application to the Department—

(1) The IHE must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424, the Assistance Listing Number, including suffix letter, if any, of the competition under which the IHE is submitting its application; and

(2) The G6 Functional Application Team will notify you of the Department's receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from the regulations for this program in 34 CFR 662.21 and are as follows:

(a) *Quality of proposed project.* (63 points) The Secretary reviews each application to determine the quality of the research project proposed by the applicant. The Secretary considers—

(1) The statement of the major hypotheses to be tested or questions to be examined, and the description and justification of the research methods to be used (20 points);

(2) The relationship of the research to the literature on the topic and to major theoretical issues in the field, and the project's originality and importance in terms of the concerns of the discipline (10 points);

(3) The preliminary research already completed in the United States and overseas or plans for such research prior to going overseas, and the kinds, quality and availability of data for the research in the host country or countries (10 points);

(4) The justification for overseas field research and preparations to establish appropriate and sufficient research contacts and affiliations abroad (10 points);

(5) The applicant's plans to share the results of the research in progress and a copy of the dissertation with scholars and officials of the host country or countries (3 points); and

(6) The guidance and supervision of the dissertation advisor or committee at all stages of the project, including guidance in developing the project, understanding research conditions abroad, and acquainting the applicant with research in the field (10 points).

(b) *Qualifications of the applicant.* (37 points) The Secretary reviews each application to determine the qualifications of the applicant. The Secretary considers—

(1) The overall strength of the applicant's graduate academic record (10 points);

(2) The extent to which the applicant's academic record demonstrates strength in area studies relevant to the proposed project (10 points);

(3) The applicant's proficiency in one or more of the languages (other than English) of the host country or countries of research (10 points);

(4) The extent to which the applicant's academic record demonstrates steps taken to further improve advanced language proficiency to overcome any anticipated language barriers relative to the proposed research project (5 points); and

(5) The applicant's ability to conduct research in a foreign cultural context, as evidenced by the applicant's references or previous overseas experience, or both (2 points).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For FY 2024, doctoral student applications will be divided into seven categories based on the world area focus of their research projects, as described in the absolute priority. Foreign language and area studies experts assigned to world area-based panels will review the doctoral student applications. Each panel will review, score, and rank its applications separately from the applications assigned to the other world area panels. At the conclusion of the peer review process, however, all fellowship applications in the competition will be ranked from the highest to the lowest score for funding purposes.

If there are applications on the rank order slate with the same average score, the Fulbright Foreign Scholarship Board's (FFSB) policy governing veteran's preference will be used in the tiebreaker and selection process. Veteran's preference will be used first to determine which application to recommend for funding. This means that in instances where two or more applications have the same average score on the rank order slate, and there are insufficient funds to support all of the equally ranked applications, the veteran's application will be given preference.

For applications that have tied average scores but are not subject to veteran's preference consideration, we will use the average score assigned on the Technical Review Forms for the ''Quality of the proposed project'' selection criterion. If a tie still exists, the average score for selection criterion

(a)(1) under ''Quality of proposed project'' (20 points) will be used as the tiebreaker. A final tiebreaker, should it become necessary, will use the average score assigned for the ''Qualifications of the applicant'' selection criterion.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The objective for the Fulbright-Hays DDRA Fellowship Program is to provide grants to colleges and universities to fund individual doctoral students to conduct research in other countries in modern foreign languages and area studies for periods of 6 to 12 months.

For the purpose of Department reporting under 34 CFR 75.110, the Department will use the following measures to evaluate its success in meeting this objective:

DDRA Measure 1: The percentage of DDRA fellows who increased their foreign language scores in speaking, reading, or writing by at least one proficiency level.

DDRA Measure 2: The percentage of DDRA fellows who complete their degree in their program of study within four years of receipt of the fellowship.

DDRA Measure 3: The percentage of DDRA fellows who found employment that utilized their language and area studies skills within eight years of receiving their award.

DDRA Measure 4: Efficiency Measure—The cost per DDRA fellow who found employment that utilized their language and area studies skills within eight years.

The information provided by grantees in their performance reports submitted via the International Resource Information System (IRIS) will be the source of data for these measures. Reporting screens for institutions and fellows may be viewed at *http://iris.ed.gov/iris/pdfs/DDRA_director.pdf,* and *http://iris.ed.gov/iris/pdfs/DDRA_fellow.pdf.*

VII. Other Information

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

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format

(PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Nasser H. Paydar,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2024–01679 Filed 1–26–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0018]

Agency Information Collection Activities; Comment Request; Formula Grant Electronic Application System for Indian Education (EASIE) Annual Performance Report

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before March 29, 2024.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2024–SCC–0018. 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 6W203, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Crystal Moore, 202–987–0607.

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: Formula Grant EASIE Annual Performance Report.

OMB Control Number: 1810–0726.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, local, and Tribal governments.

Total Estimated Number of Annual Responses: 1,300.

Total Estimated Number of Annual Burden Hours: 14,300.

Abstract: The purpose of Indian Education Formula Grant to Local Agencies, as authorized under section 6116 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA) is to assist grantees to provide Indian students with the opportunity to meet the same challenging state standards as all other students and meet the unique educational and culturally related academic needs of Indian students. The Indian Education Formula Grant (Assistance Listing Number 84.060A), is neither competitive nor discretionary and requires the annual submission of the application from either a local education agency, tribe, Indian organization, or Indian community-based organization. The amount of the award for each applicant is determined by a formula based on the reported number of Indian students identified in the application, the state per pupil expenditure, and the total appropriation available. The Office of Indian Education (OIE) of The Department of Education (ED) collects annual performance data within the same system that collects the annual application. The application and the annual performance report are both housed in the *OMB MAX/Connect.gov* Survey. Clearance was granted for the Electronic Application System for Indian Education (EASIE) Annual Performance Report (EASIE Part III) in a revised information collection by OIE. This is a request for revision of this collection. We have removed the fax number fields from this collection. In addition, we propose revisions that will clarify instructions and improve usability.

Dated: January 24, 2024.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–01694 Filed 1–26–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Meeting

AGENCY: National Advisory Committee on Institutional Quality and Integrity (NACIQI or Committee), Office of Postsecondary Education, Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the agenda, time, and instructions to access or participate in the February 27–28, 2024, hybrid meeting of NACIQI, and provides information to members of the public regarding the meeting, including requesting to make written or oral comments. Committee members will meet in-person while accrediting agency representatives and members of the public will participate virtually. The notice of this meeting is required under section 1009(a)(2) of 5 U.S.C. chapter 10 (Federal Advisory Committees) and section 114(d)(1)(B) of the Higher

Education Act of 1965, as amended (HEA).

ADDRESSES: Lyndon Baines Johnson Department of Education Building, Barnard Auditorium, 400 Maryland Avenue SW, Washington, DC 20202 [Only NACIQI members and Department of Education staff will participate in the meeting at this address].

DATES: The hybrid NACIQI meeting will be held on February 27–28, 2024, from 9:00 a.m. to 5:00 p.m. Eastern Standard Time.

FOR FURTHER INFORMATION CONTACT: George Alan Smith, Executive Director/Designated Federal Official (DFO), NACIQI, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202, telephone: (202) 453–7757, or email: *George.Alan.Smith@ed.gov.*

SUPPLEMENTARY INFORMATION:

Statutory Authority and Function: NACIQI is established under Section 114 of the HEA (20 U.S.C. 1011c). NACIQI advises the Secretary of Education with respect to:

- The establishment and enforcement of the standards of accrediting agencies or associations under subpart 2, part H, Title IV of the HEA, as amended;
- The recognition of specific accrediting agencies or associations;
- The preparation and publication of the list of nationally recognized accrediting agencies and associations;
- The eligibility and certification process for institutions of higher education under Title IV of the HEA, together with recommendations for improvement in such process;
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions; and
- Any other advisory functions relating to accreditation and institutional eligibility that the Secretary of Education may prescribe by regulation.

Meeting Agenda

The purpose of the meeting is to conduct a review of the following applications for renewal of recognition, compliance reports, and requests for expansion of scope.

Applications for Renewal of Recognition

1. The Kansas State Board of Nursing. Scope of Recognition: state agency for the approval of nurse education.

2. The Missouri State Board of Nursing. Scope of Recognition: state agency for the approval of nurse education.

3. The Oklahoma Board of Career and Technology Education. Scope of Recognition: the approval of public postsecondary vocational education offered at institutions in the State of Oklahoma that are not under the jurisdiction of the Oklahoma State Regents for Higher Education, including the approval of public postsecondary vocational education offered via distance education.

4. New York State Board of Regents (Public Postsecondary Vocational Ed, Practical Nursing). Scope of Recognition: state agency for the approval of public postsecondary vocational education in the field of practical nursing offered by a Board of Cooperative Educational Services, an Educational Opportunity Center, City School Districts, and County Boards of Supervisors to prepare persons for licensed practical nursing careers in the State of New York.

5. The Pennsylvania State Board of Career and Technical Education. Scope of Recognition: state agency for the approval of public postsecondary vocational education.

Compliance Reports

1. Accreditation Commission for Acupuncture and Herbal Medicine (ACAHM). Scope of recognition: the accreditation and pre-accreditation (''Candidacy'') of professional non-degree and graduate degree programs, including professional doctoral programs, in the field of acupuncture and/or Oriental medicine, as well as freestanding institutions and colleges of acupuncture and/or Oriental medicine that offer such programs, including programs offered via distance education. Geographic Area of Accrediting Activities: throughout the United States. Please note, this accrediting agency changed its name from ''Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM)'' effective September 8, 2021.

The compliance report must address findings of noncompliance with 34 CFR part 602, as referenced in the senior Department official's (SDO) decision letter dated October 27, 2021. The SDO also required that the Department staff's 34 CFR 602.33 inquiry findings concerning the Seldin/Haring-Smith Foundation case study on Sex Trafficking and State Authorized Massage Schools, which involved an ACAHM accredited institution, be produced as part of the ACAHM compliance report. The SDO decision letter may be found under NACIQI meeting date July 27, 2021, available at: *https://surveys.ope.ed.gov/erecognition/#/public-documents.*

2. Council on Occupational Education. Scope of recognition: the accreditation and pre-accreditation (''Candidacy Status'') of postsecondary occupational education institutions offering non-degree and applied associate degree programs in specific career and technical education fields, including institutions that offer programs via distance education. Geographic Area of Accrediting Activities: throughout the United States.

The compliance report must address findings of noncompliance with 34 CFR part 602, as referenced in the SDO decision letter dated October 27, 2021. The SDO decision letter may be found under NACIQI meeting date July 27, 2021, available at: *https://surveys.ope.ed.gov/erecognition/#/public-documents.*

3. Transnational Association of Christian Colleges and Schools, Accreditation Commission. Scope of Recognition: the accreditation and pre-accreditation (''Candidate'' status) of Christian postsecondary institutions that offer certificates, diplomas, and associate, baccalaureate, and graduate degrees, including institutions that offer distance education. Geographic Area of Accrediting Activities: throughout the United States. The compliance report must address findings of noncompliance with 34 CFR part 602, as referenced in the SDO decision letter dated October 27, 2021. The SDO decision letter may be found under NACIQI meeting date July 27, 2021, available at: *https://surveys.ope.ed.gov/erecognition/#/public-documents.*

Expansion of Scope

1. National Nurse Practitioner Residency and Fellowship Training Consortium. Scope of Recognition: the accreditation of nurse practitioner (NP) postgraduate residency and fellowship training programs. This recognition also extends to the agency's Appeals Panel. Requested Scope: the accreditation of joint nurse practitioner/physician assistant postgraduate residency and fellowship training programs. This recognition also extends to the agency's Appeals Panel.

Accreditor Dashboards

Agency representatives should be prepared to respond to possible questions from committee members about their respective agency's dashboards, which are located on the NACIQI website: *https://sites.ed.gov/naciqi/.*

Agency Opening Statements

To ensure sufficient time for all agency reviews, including NACIQI questions and discussion, the Department requests that the agencies

limit their opening statements to 10 minutes (total for one or more statements), and that the agencies avoid extended discussions about agency representatives and their backgrounds. Following the brief opening statement, the agency's presentation should focus on the regulatory criteria, and in particular, responses to areas where the staff has recommended a finding of noncompliance or substantial compliance, or where other concerns have been raised that the agency would like to address. However, the agency should expect that questions from NACIQI members may focus on other areas.

Administration Policy Update

A representative of the Administration will discuss higher education policy priorities.

Accreditor Dashboards Subcommittee Report

The subcommittee will report on information it received from interviews conducted with institutional accreditors.

Policy Discussion

In addition to its review of accrediting agencies and State approval agencies for Secretarial recognition, there will be time for Committee discussions relevant to any of the functions within NACIQI's statutory authority.

Instructions To Access or Participate in the Meeting Registration

Accrediting agency representatives and members of the public can access or participate in the meeting virtually. You may register for the meeting on your computer using the link below. After you register, you will receive a confirmation email containing personalized participation links for each day of the two-day meeting.

Registration Link

https://cvent.me/lMYY3g.

Public Comment

Submission of requests to make an oral comment regarding a specific accrediting agency under review, or to make an oral comment or written statement regarding other issues within the scope of NACIQI's authority:

The opportunity to submit a written statement regarding a specific accrediting agency under review was solicited by a previous **Federal Register** notice published on November 14, 2022 (*87 FR 68144;* Document Number 2022–24637). The period for submission of such statements is now closed. Additional written statements regarding a specific accrediting agency or state approval agency under review will not be accepted at this time. However, members of the public may submit written statements regarding other issues within the scope of NACIQI's authority, as outlined under Section 114 of the HEA (20 U.S.C. 1011c), in the manner described below.

Members of the public may make oral comments regarding a specific accrediting agency under review and/or other issues within the scope of NACIQI's authority. Oral comments may not exceed three minutes. Oral comments about an agency's recognition when a compliance report has been required by the SDO or the Secretary must relate to the criteria for recognition cited in the SDO's letter that requested the report, or in the Secretary's appeal decision, if any. Oral comments about an agency seeking expansion of scope must be directed to the agency's ability to serve as a recognized accrediting agency with respect to the kinds of institutions or programs requested to be added. Oral comments about the renewal of an agency's recognition must relate to its compliance with the criteria for the Recognition of Accrediting Agencies, which are available at *http://www.ed.gov/admins/finaid/accred/index.html.*

Written statements and oral comments concerning NACIQI's work outside of a specific accrediting agency under review must be limited to matters within the scope of NACIQI's authority, as outlined under Section 114 of the HEA (20 U.S.C. 1011c), and written statements of any kind submitted after the deadline will not be considered by the Department or provided to NACIQI for purposes of the current cycle review.

Instructions on Requesting To Make Public Comment

To make oral comments of three minutes or less during the meeting, please follow either Method One or Method Two below. To submit a written statement concerning NACIQI's work outside a specific accrediting agency under review, please follow Method One.

Method One: Send an email to the *ThirdPartyComments@ed.gov* mailbox no later than February 20, 2024. Please do not send material directly to NACIQI members. Emails submitting written statements must include the subject line ''Written Statement: (subject)'' and emails requesting to make oral comment must include the subject line ''Oral Comment Request: (agency name),'' ''Oral Comment Request: (subject).'' Emails must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number, of the person(s) submitting a written statement or requesting to speak. All individuals submitting a request to make oral comment in accordance with Method One will be afforded an opportunity to speak.

Method Two (Only available to those seeking to make oral comments): Submit a request by email on February 27, 2024, between 7:45 a.m.–8:45 a.m. Eastern Standard Time to the *ThirdPartyComments@ed.gov* mailbox. The email must include the subject on which the requestor wishes to comment, in addition to his or her name, title, organization/affiliation, mailing address, email address, and telephone number. If you intend to make your comments by dialing into the meeting rather than using a computer, please be sure to include that information in your email request. A total of up to fifteen minutes for each agenda item will be allotted for oral commenters who submit a request in accordance with Method Two. Individuals will be selected on a first-come, first-served basis. If selected, each commenter may not exceed three minutes.

Access to Records of the Meeting: The Department will post the official report of the meeting on the NACIQI website *https://sites.ed.gov/naciqi/archive-of-meetings/* within 90 days after the meeting. In addition, pursuant to 5 U.S.C. 1009(b), the public may request to inspect records of the meeting at 400 Maryland Avenue SW, Washington, DC, by emailing *aslrecordsmanager@ed.gov* or by calling (202) 453–7415 to schedule an appointment. The SDO's (as defined in 34 CFR 602.3) decisions, pursuant to 34 CFR 602.36, associated with all NACIQI meetings can be found at the following website: *https://surveys.ope.ed.gov/erecognition/#/public-documents.*

Reasonable Accommodations: The dial-in information and weblink access to the meeting are accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register**

and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You also may access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Section 114 of the HEA of 1964, as amended (20 U.S.C. 1011c).

Antoinette Flores,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 2024–01683 Filed 1–26–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0016]

Agency Information Collection Activities; Comment Request; High School Equivalency Program (HEP) Annual Performance Report

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before March 29, 2024.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2024–SCC–0016. 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 6W203, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Katrina Ballard, (202) 987–0702.

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: High School Equivalency Program (HEP) Annual Performance Report.

OMB Control Number: 1810–0684.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 54.

Total Estimated Number of Annual Burden Hours: 1,242.

Abstract: This is a request for a revision of the 1810–0684 High School Equivalency Program (HEP) Annual Performance Report collection. These revisions include language replacements, removals, and additions that are intended to ensure compliance with EDGAR 34 CFR 75.110 and OMB Circular A–110, improve the clarity of instructions and data collection, and remove duplicative language. Substantive changes include the addition of a data element related to mode of instruction. For a complete list of revisions, please see the attached summary, which will be shared with the public and OMB as a supplemental document. The Office of Migrant Education (OME) is collecting information for the High School Equivalency Program (HEP) which is authorized under Title IV, Section 418A of the Higher Education Act of 1965, as amended by Section 408 of the Higher Education Opportunity Act (HEOA)(20 U.S.C. 1070d–2) (special programs for students whose families are engaged in migrant and seasonal farm work) and 2 CFR 200.328 which requires that recipients of discretionary grants submit an Annual Performance Report (APR) to best inform improvements in program outcomes and productivity.

Although the Education Department continues to use the generic 524B, OME is requesting to continue the use of a customized APR that goes beyond the generic 524B APR to facilitate the collection of more standardized and comprehensive data to inform performance indicators, to improve the overall quality of data collected, and to increase the quality of data that can be used to inform policy decisions.

Although the Education Department continues to use the generic 524B, OME is requesting to continue the use of a customized APR that goes beyond the generic 524B APR to facilitate the collection of more standardized and comprehensive data to inform Government Performance Results Act (GPRA) indicators, to improve the overall quality of data collected, and to increase the quality of data that can be used to inform policy decisions.

Dated: January 23, 2024.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–01628 Filed 1–26–24; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Agency Information Collection Activities: Election Supporting Technology Evaluation Program Application for Participation Form

AGENCY: Election Assistance Commission (EAC).

ACTION: Notice; request for comment.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the U.S. Election Assistance Commission (EAC) gives notice that it is requesting from the Office of Management and Budget (OMB) approval for the information collection of one Election Supporting Technology Evaluation Program form.

DATES: Comments must be received by 5 p.m. Eastern on Wednesday, February 28, 2024.

ADDRESSES: To view the proposed forms, see: *https://www.regulations.gov* (docket ID: EAC–2023–0011).

Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 633 3rd Street NW, Suite 200, Washington, DC 20001, Attn: Election Supporting Technology Evaluation Program.

FOR FURTHER INFORMATION CONTACT: Elizabeth Beatrice, Election Technology Specialist, Election Supporting Technology Evaluation Program, Washington, DC (202) 748–2298. Email: *ESTEP@eac.gov*.

All requests and submissions should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Election Supporting Technology Evaluation Program Application for Participation Form; OMB Number Pending. 88 FR 63559 (Page 63559–63560, Document Number 2023–19950).

Purpose

This proposed information collection was previously published in the **Federal Register** on Friday, September 15, 2023, and allowed 60 days for public comment. In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act (PRA) of 1995, EAC is submitting to the Office of Management and Budget (OMB) a request for review and approval of the information collection described. The purpose of this notice is to allow an additional 30 days for public comment from all interested individuals and organizations.

The EAC Election Supporting Technology Evaluation Program evaluates the security and accessibility of election-supporting technologies, including electronic poll books, voter registration systems, electronic ballot delivery systems, and election night reporting databases.

The program is to publish one form. This is to be used to collect key information concerning election-supporting technology manufacturers and their systems. The application for participation in the Election Supporting Technology Evaluation Program collects administrative information on new or modified election-supporting technology systems that are being submitted for testing by a registered manufacturer.

This information is collected to improve the quality of election-supporting technology used in federal elections.

Public Comments

We are soliciting public comments to permit the EAC to:

- Evaluate whether the proposed information collection is necessary and sufficient for the proper functions of the Election Supporting Technology Evaluation Program.
- Evaluate the accuracy of our estimate of 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 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.

Respondents: Election Supporting Technology Manufacturers, State and Local Election Officials.

Annual Reporting Burden

OMB approval is requested for 3 years.

ANNUAL BURDEN ESTIMATES

Instrument	Estimated number of respondents	Total number of responses per year	Average burden hours per response	Annual burden hours
ESTEP Manufacturer Registration Form	10	10	2	20
Total		20		40

The estimated cost of the annualized cost of this burden is: $1,681.

The estimated cost of the annualized cost of this burden is: $3,361.

Camden Kelliher,

Acting General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2024–01685 Filed 1–26–24; 8:45 am]

BILLING CODE 4810–71–P

ELECTION ASSISTANCE COMMISSION

Agency Information Collection Activities: Election Supporting Technology Evaluation Program Manufacturer Registration Form

AGENCY: Election Assistance Commission (EAC).

ACTION: Notice; request for comment.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the U.S. Election Assistance Commission (EAC) gives notice that it is requesting from the Office of Management and Budget (OMB) approval for the information collection of one Election Supporting Technology Evaluation form. The information collected is to be used to improve the quality of election-supporting technology used in federal elections, and to collect necessary key information on election-supporting technology manufacturers and their systems. Participation in this program is voluntary.

DATES: Comments must be received by 5 p.m. Eastern on Wednesday, February 28, 2024.

ADDRESSES: Comments on the proposed form should be submitted electronically via *https://www.regulations.gov* (docket ID: EAC–2023–0012).

Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 633 3rd Street NW, Suite 200, Washington, DC 20001, Attn: Election Supporting Technology Evaluation Program.

FOR FURTHER INFORMATION CONTACT: Elizabeth Beatrice, Election Technology Specialist, Election Supporting Technology Evaluation Program, Washington, DC (202) 748–2298. Email: *ESTEP@eac.gov*

All requests and submissions should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Election Supporting Technology Evaluation Program Manufacturer Registration Form; OMB Number Pending. 88 FR 78008 (Page 78008–78009, Document Number 2023–25057).

Purpose

This proposed information collection was previously published in the **Federal Register** on Friday, November 14, 2023 and allowed 60 days for public comment. In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act (PRA) of 1995, EAC is submitting to the Office of Management and Budget (OMB) a request for review and approval of the information collection described. The purpose of this notice is to allow an additional 30 days for public comment from all interested individuals and organizations.

The EAC Election Supporting Technology Evaluation Program evaluates the security and accessibility of election-supporting technologies, including electronic poll books, voter registration systems, electronic ballot delivery systems, and election night reporting databases.

The program is to publish one form. This is to be used to collect key information concerning election-supporting technology manufacturers. The application for registration in the Election Supporting Technology Evaluation Program collects administrative information on manufacturers and their organizations.

This information is collected to improve the quality of election-supporting technology used in federal elections.

Public Comments

We are soliciting public comments to permit the EAC to:

- Evaluate whether the proposed information collection is necessary and sufficient for the proper functions of the Election Supporting Technology Evaluation Program.
- Evaluate the accuracy of our estimate of 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 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.

Respondents: Election Supporting Technology Manufacturers, State and Local Election Officials.

Annual Reporting Burden

OMB approval is requested for 3 years.

ANNUAL BURDEN ESTIMATES

Instrument	Estimated number of respondents	Total number of responses per year	Average burden hours per response	Annual burden hours
ESTEP Manufacturer Registration Form	10	1	2	20
Total	.....	10	.....	20

The estimated cost of the annualized cost of this burden is: $1,681.

Camden Kelliher,

Acting General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2024–01699 Filed 1–26–24; 8:45 am]

BILLING CODE 4810–71–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2221–041]

Empire District Electric Company; Notice of Intent To Prepare an Environmental Assessment

On February 28, 2020, Empire District Electric Company (Empire District) filed an application for a new major license to continue operating the existing, 16-megawatt Ozark Beach Hydroelectric Project No. 2221 (Ozark Beach Project). Empire District filed an amended application on August 28, 2020. The project is located on the White River, near the Town of Forsyth, in Taney County, Missouri. The project occupies 5.1 acres of federal land administered by the U.S. Army Corps of Engineers.

In accordance with the Commission's regulations, on November 9, 2023, Commission staff issued a notice that the project was ready for environmental analysis (REA notice). Based on the information in the record staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an Environmental Assessment (EA) on the application to license the Ozark Beach Project.

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov*.

The application will be processed according to the following schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues EA.	June 2024.[1]
Comments on EA	July 2024.

Any questions regarding this notice may be directed to Colleen Corballis at *colleen.corballis@ferc.gov* or call at 202–502–8598.

Dated: January 22, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01638 Filed 1–26–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–957–000]

Franklin Solar 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 Franklin Solar 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 February 12, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) 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: January 22, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01639 Filed 1–26–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–42–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on January 17, 2024, Transcontinental Gas Pipe Line Company, LLC (Transco), PO Box 1396, Houston, Texas 77251–1396, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act (NGA), and Transco's blanket certificate issued in Docket No. CP82–426–000, for authorization to construct its Mainline ''A'' MP 1817.1 Newark Relocation Project (Project). Specifically, Transco proposes to install 0.42 miles of 30-inch-diameter Mainline ''A'' pipeline and abandon in-place approximately 0.40 miles of existing 30-inch-diameter Mainline ''A'' pipeline in Essex County, New Jersey to accommodate development of a warehouse by the landowner. Transco estimates the cost of the Project to be approximately $15.6 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*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. Public access to records formerly available in the Commission's physical Public Reference Room, which was located at the Commission's headquarters, 888 First Street NE, Washington, DC 20426, are now available via the Commission's website. For assistance, contact the Federal Energy Regulatory Commission at *FercOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY (202) 502–8659.

Any questions concerning this request should be directed to: Andre Pereira Manager, Certificates and Modernization, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, Texas 77251–1396, by telephone at (713) 215–4362, or by email at *Andre.S.Pereira@Williams.com.*

[1] The Council on Environmental Quality's (CEQ) regulations under 40 CFR 1501.10(b)(1) require that EAs be completed within 1 year of the federal action agency's decision to prepare an EA. This notice establishes the Commission's intent to prepare an EA for the Ozark Beach Project. Therefore, in accordance with CEQ's regulations, the EA must be issued within 1 year of the issuance date of this notice.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on March 22, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is March 22, 2024. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is March 22, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before March 22, 2024. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP24–42–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP24–42–000.

To file via USPS: Debbie-Anne Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Debbie-Anne Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Andre Pereira Manager, Certificates and Modernization, Transcontinental Gas Pipe Line Company, LLC, P.O. Box 1396, Houston, Texas 77251–1396 or by email at *Andre.S.Pereira@Williams.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: January 22, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01640 Filed 1–26–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2341–000]

Georgia Power Company; Notice of Authorization for Continued Project Operation

The license for the Langdale Hydroelectric Project No. 2341 was issued for a period ending December 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. 2341 is issued to the Georgia Power Company for a period effective January 1, 2024, through December 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 December 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 Georgia Power Company is authorized to continue operation of the Langdale 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: January 22, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01637 Filed 1–26–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24–91–000.

Applicants: Monte Cristo Windpower, LLC.

Description: Monte Cristo Windpower, LLC submits Notice of Self–Certification of Exempt Wholesale Generator Status.

Filed Date: 1/22/24.

Accession Number: 20240122–5132.

Comment Date: 5 p.m. ET 2/12/24.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24–59–000.

Applicants: AV3 Energy, LLC.

Description: Petition for Enforcement Pursuant to (Section 210(H) of the Public Utility Regulatory Policies Act of 1978 or applicable Policy) of AV3 Energy, LLC.

Filed Date: 1/12/24.

Accession Number: 20240112–5203.

Comment Date: 5 p.m. ET 2/12/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER23–2532–002.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Lea County—Compliance Filing in Response to December 22 Order to be effective 10/1/2023.

Filed Date: 1/22/24.

Accession Number: 20240122–5021.

Comment Date: 5 p.m. ET 2/12/24.

Docket Numbers: ER24–621–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment of FirstEnergy Reorganization Filing in Docket No. ER24–621 to be effective 12/31/9998.

Filed Date: 1/19/24.

Accession Number: 20240119–5186.

Comment Date: 5 p.m. ET 2/9/24.

Docket Numbers: ER24–688–001.

Applicants: Florida Power & Light Company.

Description: Tariff Amendment: FPL Errata Amendments to OATT NWFL System Formula Rate Template to be effective 2/15/2024.

Filed Date: 1/22/24.

Accession Number: 20240122–5113.

Comment Date: 5 p.m. ET 2/12/24.

Docket Numbers: ER24–962–000.

Applicants: Duke Energy Florida, LLC.

Description: 205(d) Rate Filing: DEF-Revision to RS No. 80 to be effective 5/1/2023.

Filed Date: 1/19/24.

Accession Number: 20240119–5168.

Comment Date: 5 p.m. ET 2/9/24.

Docket Numbers: ER24–963–000.

Applicants: New Mexico Wind, LLC.

Description: Baseline eTariff Filing: New Mexico Wind, LLC's Filing of Shared Facilities Agreement to be effective 3/20/2024.

Filed Date: 1/19/24.

Accession Number: 20240119–5184.

Comment Date: 5 p.m. ET 2/9/24.

Docket Numbers: ER24–964–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Services Company.

Description: 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2024–01–22_SA 4226 Ameren-Union Electric Company E&P (J1836) to be effective 1/23/2024.

Filed Date: 1/22/24.

Accession Number: 20240122–5029.

Comment Date: 5 p.m. ET 2/12/24.

Docket Numbers: ER24–965–000.

Applicants: Versant Power.

Description: Tariff Amendment: Notice of Cancellation of Interconnection Agreement—Penobscot to be effective 11/20/2023.

Filed Date: 1/22/24.

Accession Number: 20240122–5047.

Comment Date: 5 p.m. ET 2/12/24.

Docket Numbers: ER24–966–000.

Applicants: Eleven Mile Solar Center, LLC.

Description: Baseline eTariff Filing: Application for MBR Authorization with Waiver Requests to be effective 1/23/2024.

Filed Date: 1/22/24.
Accession Number: 20240122–5100.
Comment Date: 5 p.m. ET 2/12/24.
Docket Numbers: ER24–967–000.
Applicants: Orange and Rockland Utilities, Inc.
Description: Initial rate filing: O&R Attachment L WDS tariff 1–22–2024 to be effective 1/23/2024.
Filed Date: 1/22/24.
Accession Number: 20240122–5108.
Comment Date: 5 p.m. ET 2/12/24.
Docket Numbers: ER24–968–000.
Applicants: ReEnergy Black River LLC.
Description: Tariff Amendment: Notice of Cancellation to be effective 1/23/2024.
Filed Date: 1/22/24.
Accession Number: 20240122–5111.
Comment Date: 5 p.m. ET 2/12/24.
Docket Numbers: ER24–969–000.
Applicants: New York Independent System Operator, Inc.
Description: 205(d) Rate Filing: NYISO 205: Amended SGIA LIPA Riverhead Solar Farm SA2436 (CEII) to be effective 1/5/2024.
Filed Date: 1/22/24.
Accession Number: 20240122–5126.
Comment Date: 5 p.m. ET 2/12/24.
Docket Numbers: ER24–970–000.
Applicants: New York Independent System Operator, Inc.
Description: 205(d) Rate Filing: NYISO 205: LGIA LIPA Riverhead Solar 2 Project SA2740 (CEII) to be effective 1/5/2024.
Filed Date: 1/22/24.
Accession Number: 20240122–5129.
Comment Date: 5 p.m. ET 2/12/24.
Docket Numbers: ER24–971–000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii: ATSI submits IAs, SA Nos. 6931, 6932, 6933 re: FirstEnergy Reorganization to be effective 1/1/2024.
Filed Date: 1/22/24.
Accession Number: 20240122–5139.
Comment Date: 5 p.m. ET 2/12/24.
Docket Numbers: ER24–972–000.
Applicants: Desert Sunlight 250, LLC.
Description: 205(d) Rate Filing: Desert Sunlight 250, LLC Second A&R Co-Tenancy and Shared Facilities Agreement to be effective 1/23/2024.
Filed Date: 1/22/24.
Accession Number: 20240122–5144.
Comment Date: 5 p.m. ET 2/12/24.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: January 22, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01642 Filed 1–26–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–331–000.
Applicants: MountainWest Overthrust Pipeline, LLC.
Description: 4(d) Rate Filing: Statement of Negotiated Rates Version 17 to be effective 1/20/2024.
Filed Date: 1/19/24.
Accession Number: 20240119–5164.
Comment Date: 5 p.m. ET 1/31/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: PR24–32–001.

Applicants: Columbia Gas of Ohio, Inc.

Description: 284.123 Rate Filing: COH Amendment Rates eff 1–3–2024 to be effective 1/3/2024.

Filed Date: 1/22/24.

Accession Number: 20240122–5076.

Comment Date: 5 p.m. ET 2/12/24.

Docket Numbers: RP21–1143–002.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: Petition for Approval of Settlement of Transcontinental Gas Pipeline Company, LLC.

Filed Date: 1/19/24.

Accession Number: 20240119–5110.

Comment Date: 5 p.m. ET 1/31/24.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date. The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number. eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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: January 22, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01641 Filed 1–26–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2350–000]

Georgia Power Company; Notice of Authorization for Continued Project Operation

The license for the Riverview Hydroelectric Project No. 2350 was issued for a period ending December 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. 2350 is issued to the Georgia Power Company for a period effective January 1, 2024, through December 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 December 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 Georgia Power Company is authorized to continue operation of the Riverview 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: January 22, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01636 Filed 1–26–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2533–062]

Brainerd Public Utilities; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for a new license to continue to operate and maintain the Brainerd Hydroelectric Project (project). The project is located on the Mississippi River in the City of Brainerd, in Crow Wing County, Minnesota. Commission staff has prepared an Environmental Assessment (EA) for the project.

The EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA 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. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

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.*

Any comments should be filed within 30 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2533–062.

For further information, contact Patrick Ely at *patrick.ely@ferc.gov* or 202–502–8570.

Dated: January 22, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–01635 Filed 1–26–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2012–0103; FRL–11699–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Clean School Bus (CSB) Rebate Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Clean School Bus (CSB) Rebate Program

(EPA ICR Number 2461.06, OMB Control Number 2060–0686) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through August 31, 2025, is being submitted now to incorporate elements currently approved under an emergency ICR for the Clean School Bus Rebate Program (EPA ICR Number 2780.01, OMB Control Number 2060–0750), expiring February 29, 2024. Public comments were previously requested via the **Federal Register** on November 3, 2023 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments must be submitted on or before March 29, 2024.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2012–0103, to EPA online using *www.regulations.gov* (our preferred method), *a-and-r-docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Timothy Thomas, Office of Transportation and Air Quality, (6406A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 734–214–4465; email address: *thomas.tim.l@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through August 31, 2025. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Public comments were previously requested via the **Federal Register** on November 3, 2023 during a 60-day comment period (88 FR 75587). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: This supporting statement is for the Information Collection Request (ICR) renewal for the Clean School Bus (CSB) Rebates Program. The CSB Rebates Program currently collects information under the existing Diesel Emissions Reduction Act (DERA) and Clean School Bus (CSB) Rebate Program ICR (OMB Control Number 2060–0686) to ensure its successful administration and management of those programs. Additionally, an emergency ICR (EPA ICR No. 2780.01, OMB Control No. 2060–0750) was approved by OMB in September 2023 that included supplementary data necessary to adequately review and administer the CSB Rebate Program. This ICR renewal consolidates all components of the CSB Rebate Program collection.

EPA uses approved procedures and forms to collect necessary information to operate the CSB Rebate Program and has been providing these rebates since 2022. For each rebate program, EPA utilizes three online forms for the three phases of the rebate lifecycle: (1) Application Form for eligible entities to apply to a new rebate program, (2) Payment Request Form for selectees to submit order documentation and receive funds, and (3) Close Out Form for selectees to document completion of the rebate-eligible activity. In Fall 2023, EPA launched the 2023 CSB Rebate Application for applicants, and the 2022 CSB Rebate Close Out Form for existing 2022 program participants; EPA is currently preparing to launch the 2023 CSB Rebate Payment Request Form in early spring of 2024. EPA will subsequently launch the 2023 CSB Rebate Close Out Form, as well as each rebate form for any future rebate programs (*e.g.,* 2024 CSB Rebate Program). The data collected in these forms are needed to operate the rebate program as authorized by Congress under the CSB statute.

School buses collectively travel over four billion miles each year, providing safe transportation to and from school for more than 25 million American children every day. The CSB Rebate Program funds the replacement of existing school buses with cleaner buses, the operation of which result in better air quality throughout the communities in which they operate.

Form Numbers: 5900–261, CSB Application; 5900–645 CSB Payment Request Form; 5900–646 CSB Close out Form

Respondents/affected entities: Those interested in applying for a rebate under EPA's CSB Program and include but are not limited to the following NAICS (North American Industry Classification System) codes: 484 Truck Transportation; 485 Transit and Ground Passenger Transportation; 4854 School and Employee Bus Transportation; 61111 Elementary and Secondary Schools; 61131 Colleges, Universities, and Professional Schools; 9211 Executive, Legislative, and Other Government Support; and 9221 Justice, Public Order, and Safety Activities.

Respondent's obligation to respond: Mandatory for CSB rebate recipients.

Estimated number of respondents: 2,400 (total).

Frequency of response: Once per year.

Total estimated burden: 19,763 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Changes in the estimates: There is a decrease of 4,921 hours in the total estimated respondent burden compared with the combined burden of 24,684 hours currently approved by OMB under ICRs 2461.05 and 2780.01. These changes are due primarily to decreases in the respondent count for the Payment Request Form and Close Out Form. Those reductions are offset by increases in EPA's estimates for respondents' time burden for the completion of forms. Additionally, changes in technical labor requirements and BLS wage listings have increased the total cost of burden.

Courtney Kerwin,

Director, Information Engagement Division.

[FR Doc. 2024–01678 Filed 1–26–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0659; FRL–11713–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Generic Clearance for Participatory Science and Crowdsourcing Projects (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Generic Clearance for Participatory Science and Crowdsourcing Projects (EPA ICR Number 2521.41, OMB Control Number 2080–0083) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2024. Public comments were previously requested via the **Federal Register** on August 21, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before February 28, 2024.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–ORD–2015–0659, to EPA online using *www.regulations.gov* (our preferred method), by email to *ord.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Heather Drumm, Office of Research and Development-Office of Science Advisor, Policy and Engagement, (8104R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–8239; email address: *Drumm.Heather@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through January 31, 2024. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on August 21, 2023, during a 60-day comment period (88 FR 56815). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: EPA relies on scientific information. Participatory science and crowdsourcing techniques allow the Agency to collect qualitative and quantitative data that might help inform scientific research, assessments, or environmental screening; validate environmental models or tools; or enhance the quantity and quality of data collected across the country's diverse communities and ecosystems to support the Agency's mission. Information gathered under this generic clearance will be used by the Agency to support the activities listed above and might provide unprecedented avenues for conducting breakthrough research. Collections under this generic ICR will be from participants who actively seek to participate on their own initiative through an open and transparent process (the Agency does not select participants or require participation); the collections will be low-burden for participants; collections will be low-cost for both the participants and the Federal Government; and data will be available to support the scientific research (including assessments, environmental screening, tools, models, etc.) of the Agency, States, Tribal or local entities where data collection occurs. EPA may, by virtue of collaborating with non-Federal entities, sponsor the collection of this type of information in connection with participatory science projects. When applicable, all such collections will comply with Agency policies and regulations related to human subjects research and will follow the established approval paths through EPA's Human Subjects Research Review Official. Finally, personally identifiable information (PII) will only be collected when necessary and in accordance with applicable Federal procedures and policies. If a new collection is not within the parameters of this generic ICR, the Agency will submit a separate information collection request to OMB for approval.

Form Numbers: None.

Respondents/affected entities: Participants/respondents will be individuals, not specific entities.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 17,500 (total).

Frequency of response: The frequency of responses will range from once to on occasion.

Total estimated burden: 389,083 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $19,053,132 (per year), includes $525,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no change of hours in the total estimated respondent burden compared with the ICR currently approved by OMB. The dollar figures have been updated to reflect current wages.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2024–01671 Filed 1–26–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–EPA–HQ–OAR–2006–0407; FRL–11703–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; EPA's ENERGY STAR® Program in the Commercial and Industrial Sectors (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), EPA's ENERGY STAR Program in the Commercial and Industrial Sectors (EPA ICR Number 1772.09, OMB Control Number. 2060–0347) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2024. Public comments were previously requested via the **Federal Register** on May 31, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before February 28, 2024.

ADDRESSES: Submit your comments to EPA, referencing Docket ID Number EPA–HQ–OAR–2006–0407 online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Cynthia Veit Maia, Climate Protection Partnerships Division, (5230A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–9494; fax number: 202–343–2204; email address: *veitmaia.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through January 31, 2024. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on May 31, 2023, during a 60-day comment period (88 FR 34855). This notice allows for an additional 30 days for public comments. Supporting documents that explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: EPA created ENERGY STAR as a voluntary program to help businesses and individuals protect the environment through superior energy efficiency. The program focuses on reducing utility-generated emissions by reducing the demand for energy. In 1991, EPA launched the Green Lights Program to encourage corporations, State and local governments, colleges and universities, and other organizations to adopt energy-efficient lighting as a profitable means of preventing pollution and improving lighting quality. Since then, EPA has rolled Green Lights into ENERGY STAR and expanded ENERGY STAR to encompass organization-wide energy performance improvement, such as building technology upgrades, product purchasing initiatives, and employee training. At the same time, EPA has streamlined the reporting requirements of ENERGY STAR and focused on providing incentives for improvements (*e.g.,* ENERGY STAR awards program). EPA also makes tools and other resources available over the Web to help the public overcome the barriers to evaluating their energy performance and investing in profitable improvements.

To join ENERGY STAR, organizations are asked to complete a Partnership Application that establishes their commitment to energy efficiency. Partners agree to undertake efforts such as measuring, tracking, and benchmarking their organization's energy performance by using tools such as those offered by ENERGY STAR; developing and implementing a plan to improve energy performance in their facilities and operations by adopting a strategy provided by ENERGY STAR; educating staff and the public about their Partnership with ENERGY STAR, and highlighting achievements with the ENERGY STAR, where available.

Partners also may be asked to periodically submit information to EPA as needed to assist in program implementation.

Partnership in ENERGY STAR is voluntary and can be terminated by Partners or EPA at any time. EPA does not expect organizations to join the program unless they expect participation to be cost-effective and otherwise beneficial for them.

In addition, Partners and other interested parties can seek recognition and help EPA promote energy-efficient technologies by evaluating the efficiency of their buildings using EPA's online tools (*e.g.,* Portfolio Manager) and applying for recognition. EPA does not expect any information collected under ENERGY STAR to be Confidential Business Information (CBI).

Form Numbers: 5900–19, 5900–195, 5900–197, 5900–198, 5900–22, 5900–262, 5900–263, 5900–264, 5900–265, 5900–382, 5900–383, 5900–387, 5900–436, 5900–441, 5900–442, 5900–443, 5900–444, 5900–445, 5900–89, 5900–622, 5900–623.

Respondents/affected entities: Participants in EPA's ENERGY STAR Program in the commercial and industrial sectors.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 42,196 (total).

Frequency of response: One-time, annually, or on occasion.

Total estimated burden: 187,199 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $14,810,511 (per year), includes $5,288,750 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a net decrease of 23,107 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This is a result of a 325-hour increase due to program changes and a 23,432-hour decrease due to adjustments.

Program changes reflect revisions to the array of activities EPA carries out under the ENERGY STAR Certification for Buildings. The adjustments are primarily related to the benchmarking process. While more buildings across the country are following Building Performance Standards, the time needed to benchmark each one is diminishing as the proportion of first-time respondents falls and their utilization of time-saving Web Services grows.

Courtney Kerwin,

Director, Information Engagement Division.

[FR Doc. 2024–01687 Filed 1–26–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2013–0118; FRL–11706–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Control of Evaporative Emissions From New and In-Use Portable Gasoline Containers (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Control of Evaporative Emissions from New and In-Use Portable Gasoline Containers (Renewal), (EPA ICR Number

2213.07, OMB Control Number 2060–0597) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This notice is a proposed extension of the ICR, which is currently approved through January 31, 2024. Public comments were previously requested via the **Federal Register** on November 3, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments must be submitted on or before February 28, 2024.

ADDRESSES: Submit your comments, referencing the Docket ID No. EPA–HQ–OAR–2013–0118, to the EPA: online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Philip Carlson, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4270; fax number 734–214–4869; email address: *Carlson.Philip@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through January 31, 2024. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on November 3, 2023 during a 60-day comment period (88 FR 75589). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: EPA is required under Section 183(e) of the Clean Air Act to regulate Volatile Organic Compound (VOC) emissions from the use of consumer and commercial products. Under regulations promulgated on February 26, 2007 (72 FR 8428) manufacturers of new portable gasoline containers are required to obtain certificates of conformity with the Clean Air Act, effective January 1, 2009. This ICR covers the burdens associated with this certification process. EPA reviews information submitted in a manufacturer's application for certification to determine if the gasoline container design conforms to applicable regulatory requirements and to verify that the required testing has been performed. The certificate holder is required to keep records on the testing and collect and keep warranty and defect information for annual reporting on in-use performance of their products. The respondent must also retain records on the units produced, apply serial numbers to individual containers, and track the serial numbers to their certificates of conformity. Any information submitted for which a claim of confidentiality is made is safeguarded according to EPA regulations at 40 CFR 2.201 *et seq.*

Form Numbers: None.

Respondents/affected entities: Manufacturers of new portable gasoline containers from 0.25 to 10.0 gallons in capacity.

Respondent's obligation to respond: Mandatory (40 CFR part 59, subpart F).

Estimated number of respondents: 9 (total).

Frequency of response: Yearly for warranty reports; at least once every five years for certification and certificate renewals.

Total estimated burden: 165 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $ 29,855.51 (per year), which includes $ 21,613.67 annualized capital and operation & maintenance costs.

Changes in Estimates: The program is now mature and startup costs have largely already been incurred. One successful warranty violation report has been received on an annual basis, as reported above, so warranty report applications are expected to be less time-consuming. The number of manufacturers certifying PFC's is nine (9) and we do not anticipate an increase in new entrants. The increase in anticipated costs is due to the adjustment in the expected testing burden. We have increased the anticipated cost of contracting a PFC emission test to reflect the estimated current market rate. There is an overall decrease in burden hours, which is an adjustment to correct the previous ICR which had incorrectly included some of the O&M costs in the hour burden.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2024–01674 Filed 1–26–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2023–0105; FRL–11712–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h) (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Regulation of Persistent, Bioaccumulative, and Toxic Chemicals under TSCA Section 6(h), (EPA ICR Number 2599.03, OMB Control Number 2070–0213) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2024. Public comments were previously requested via the **Federal Register** on March 10, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before February 28, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OPP–2023–0105, to EPA online using *www.regulations.gov* (our preferred method or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW,

Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Katherine Sleasman, Office of Program Support (7602M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1204; email address: *sleasman.katherine@epa.gov*.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through January 31, 2024. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on March 10, 2023, during a 60-day comment period (88 FR 15019). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: This ICR covers the information collection activities associated with the prohibitions and restrictions on the following five chemical substances: decabromodiphenyl ether (decaBDE) (Chemical Abstract Services Number (CASRN) 1163–19–5), phenol, isopropylated phosphate (3:1) (PIP (3:1)) (CASRN 68937–41–7), 2,4,6-tris(tert-butyl)phenol (2,4,6-TTBP) (CASRN 732–26–3), pentachlorothiophenol (PCTP) (CASRN 133–49–3), and hexachlorobutadiene (HCBD) (CASRN 87–68–3).

Form Numbers: None.

Respondents/affected entities: Entities potentially affected are those that manufacture, process, distribute in commerce or use decaBDE, PIP (3:1), 2,4,6-TTBP, PCTP, HCBD, or products or articles containing these chemicals.

Respondent's obligation to respond: Mandatory (40 CFR 751).

Estimated number of respondents: 73 (total).

Frequency of response: On occasion.

Total estimated burden: 54 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated costs: $4,287 (per year), which includes $0 annualized capital or operation & maintenance costs.

Changes in the estimates: There is a decrease of 34 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to EPA's updating of burden estimates for these chemicals under the rule. This change is an adjustment. It results from the fact that some firms are no longer expected to incur recordkeeping and downstream notification costs since they are prohibited from using the chemical(s) during the period this ICR covers.

Courtney Kerwin,

Director, Information Engagement Division.

[FR Doc. 2024–01672 Filed 1–26–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0152; FRL–11704–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Compliance Assurance Monitoring Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Compliance Assurance Monitoring (CAM) Program (EPA ICR Number 1663.11, OMB Control Number 2060–0376), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through January 31, 2024. Public comments were previously requested, via the **Federal Register** on May 18, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before February 28, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2003–0152, to EPA online using *www.regulations.gov* (our preferred method), or by email to: *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this specific information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through January 31, 2024. An agency may neither conduct nor sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested, via the **Federal Register** on July 22, 2023, during a 60-day comment period (88 FR 31748). The notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional

information about EPA's public docket, visit *www.epa.gov/dockets.*

Abstract: Information collected as part of this information collection request (ICR) is used to issue operating permits and manage the CAM program. The operating permit program requires owners or operators of units that emit air pollutants to submit annual compliance certifications and monitoring results at least semi-annually, and to report deviations promptly, but no implementation guidance is provided within the operating permit program. The CAM program ensures sources that use active air emission control devices pay attention to those devices by monitoring their performance on an ongoing basis. The CAM rule establishes the requirements to implement that monitoring for the operating permit program in a cost-effective manner.

Form Numbers: None.

Respondents/affected entities: Owners and operators of pollutant-specific emission units.

Respondent's obligation to respond: Mandatory (40 CFR part 64).

Estimated number of respondents: 22,153 (total).

Frequency of response: Semiannually.

Total estimated burden: 23,510 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $2,423,000 (per year) which includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an overall decrease of 1,080 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to a correction of mathematical errors found in the previous ICR renewal. While the total estimated annual burden decreased, the total annual cost increased due to updated labor rates from the currently approved ICR.

The CAM program was designed to ensure monitoring provisions associated with the prevention of significant deterioration (PSD) program were included in the Title V permits and updated as necessary. The owners or operators were required to develop monitoring plans for sources with active control devices. The agency envisioned that, over time, all the title V permits would be issued and would require CAM rule requirements. Current burden reduction for the CAM rule is based on complete issuance of title V permits, meaning no additional sources with active control devices need CAM plans; only ongoing, not new, CAM is needed. Since there are no new CAM plans, only review of existing CAM plans, the renewal review hours drop. No changes to the CAM rule keep costs the same (*i.e.,* no increase in burden). Moreover, familiarity with existing CAM plan requirements should reduce source and regulatory review burden.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2024–01677 Filed 1–26–24; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Thursday, February 8, 2024.

PLACE: You may observe 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: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The following matters will be considered:

- Approval of Minutes for January 11, 2024
- Risk-Weighting of High Volatility Commercial Real Estate Final Rule

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. 2024–01771 Filed 1–25–24; 11:15 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1147; FR ID 198607]

Information Collection Being Reviewed by the Federal Communications Commission

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 (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. 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 March 29, 2024. 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 Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 Office of Management and Budget (OMB) control number.

OMB Control Number: 3060–1147.

Title: Wireless E911 Phase II Location Accuracy Requirements (Third Report and Order in PS Docket No. 07–114).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, State, Local or Tribal Government, and Federal Government.

Number of Respondents and Responses: 4,104 respondents; 4,272 responses.

Estimated Time per Response: 1 hour–8 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection is contained

in 47 U.S.C. 151, 154(i), 301, 303(r), and 332 of the Communications Act, as amended.

Total Annual Burden: 30,812 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission is seeking Office of Management and Budget (OMB) approval for an extension of this information collection and will submit this information collection after this 60-day comment period.

The Commission's *Third Report and Order* in PS Docket No. 07–114 adopted a rule providing that new CMRS network providers meeting the definition of covered CMRS providers in Section 9.10 and deploying new stand-alone networks must meet the handset-based location accuracy standard in delivering emergency calls for Enhanced 911 service. The rule requires that new stand-alone CMRS providers must satisfy the handset-based location accuracy standard at either a county-based or Public Safety Answering Point (PSAP)-based geographic level. Additionally, in accordance with the pre-existing requirements for CMRS providers using handset-based location technologies, new stand-alone CMRS providers are permitted to exclude up to 15 percent of the counties or PSAP areas they serve due to heavy forestation that limits handset-based technology accuracy in those counties or areas but are required to file a an initial list of the specific counties or portions of counties where they are utilizing their respective exclusions.

A. *Updated Exclusion Reports.* Under this information collection and pursuant to current rule section 9.10(h) new stand-alone CMRS providers and existing CMRS providers that have filed initial exclusion reports are required to file reports informing the Commission of any changes to their exclusion lists within thirty days of discovering such changes. The permitted exclusions properly but narrowly account for the known technical limitations of either the handset-based or network-based location accuracy technologies chosen by a CMRS provider, while ensuring that the public safety community and the public at large are sufficiently informed of these limitations.

B. *Confidence and Uncertainty Data.* Under this information collection and pursuant to current rule section 9.10(h), all CMRS providers and other entities responsible for transporting confidence and uncertainty data between the wireless carriers and PSAPs, including LECs, CLECs, owners of E911 networks, and emergency service providers (collectively, System Service Providers (SSPs)) must continue to provide confidence and uncertainty data of wireless 911 calls to Public Safety Answering Points (PSAP) on a per call basis upon a PSAP's request. New stand-alone wireless carriers also incur this obligation. The transport of the confidence and uncertainty data is needed to ensure the delivery of accurate location information with E911 service.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–01615 Filed 1–26–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[NOTICE 2024–03]

Price Index Adjustments for Expenditure Limitations and Lobbyist Bundling Disclosure Threshold

AGENCY: Federal Election Commission.

ACTION: Notice of adjustments to expenditure limitations and lobbyist bundling disclosure threshold.

SUMMARY: As mandated by provisions of the Federal Election Campaign Act (''the Act''), the Federal Election Commission (''the Commission'') is adjusting certain expenditure limitations and the lobbyist bundling disclosure threshold set forth in the Act, to index the amounts for inflation. Additional details appear in the supplemental information that follows.

DATES: The new limitations apply beginning on January 1, 2024.

ADDRESSES: 1050 First Street NE, Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, (202) 694–1100 or (800) 424–9530, *info@fec.gov.*

SUPPLEMENTARY INFORMATION: Under the Federal Election Campaign Act, 52 U.S.C. 30101–45, coordinated party expenditure limits (52 U.S.C. 30116(d)(2)–(3)) and the disclosure threshold for contributions bundled by lobbyists (52 U.S.C. 30104(i)(3)(A)) are adjusted periodically to reflect changes in the consumer price index. *See* 52 U.S.C. 30104(i)(3)(B), 30116(c); 11 CFR 109.32(a)(2), (b)(3), 110.17(a), (f). The Commission is publishing this notice to announce the adjusted limits and disclosure threshold for 2024.

Coordinated Party Expenditure Limits for 2024

Under 52 U.S.C. 30116(c), the Commission must adjust the expenditure limitations established by 52 U.S.C. 30116(d) (the limits on expenditures by national party committees, state party committees, or their subordinate committees in connection with the general election campaign of candidates for Federal office) annually to account for inflation. This expenditure limitation is increased by the percent difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 1974). 52 U.S.C. 30116(c)(1)(B)(i), (2)(B)(i).

1. Expenditure Limitation for House of Representatives in States With More Than One Congressional District

Both the national and state party committees have an expenditure limitation for each general election held to fill a seat in the House of Representatives in states with more than one congressional district. *See* 52 U.S.C. 30116(d)(3)(B). This limitation also applies to the District of Columbia and territories that elect individuals to the office of Delegate or Resident Commissioner.[1] *Id.* The formula used to calculate the expenditure limitation in such states and territories multiplies the base figure of $10,000 by the difference in the price index (6.17976), rounding to the nearest $100. *See* 52 U.S.C. 30116(c)(1)(B), (d)(3)(B); 11 CFR 109.32(b), 110.17. Based upon this formula, the expenditure limitation for 2024 general elections for House candidates in these states, districts, and territories is $61,800.

2. Expenditure Limitation for Senate and for House of Representatives in States With Only One Congressional District

Both the national and state party committees have an expenditure limitation for a general election held to fill a seat in the Senate or in the House of Representatives in states with only one congressional district. *See* 52 U.S.C. 30116(d)(3)(A). The formula used to calculate this expenditure limitation considers not only the price index but also the voting age population (''VAP'') of the state. *Id.* The VAP figures used to calculate the expenditure limitations were certified by the U.S. Census Bureau. The VAP of each state is also published annually in the **Federal Register** by the U.S. Department of Commerce. 11 CFR 110.18. The general election expenditure limitation is the

[1] Currently, these are Puerto Rico, American Samoa, Guam, the United States Virgin Islands and the Northern Mariana Islands. *See http://www.house.gov/representatives.*

greater of: The base figure ($20,000) multiplied by the difference in the price index, 6.17976 (which totals $123,600); or $0.02 multiplied by the VAP of the state, multiplied by 6.17976. *See* 52 U.S.C. 30116(c)(1)(B), (d)(3)(A); 11 CFR 109.32(b), 110.17. Amounts are rounded to the nearest $100. 52 U.S.C. 30116(c)(1)(B)(iii); 11 CFR 109.32(b)(3), 110.17(c). The chart below provides the state-by-state breakdown of the 2024 general election expenditure limitations for Senate elections. The expenditure limitation for 2024 House elections in states with only one congressional district [2] is $123,600.

SENATE GENERAL ELECTION COORDINATED EXPENDITURE LIMITS—2024 ELECTIONS [3]

State	Voting age population (VAP)	VAP × .02 × the price index (6.17976)	Senate expenditure limit (the greater of the amount in column 3 or $123,600)
Alabama	3,977,628	$491,600	$491,600
Alaska	557,899	69,000	123,600
Arizona	5,848,310	722,800	722,800
Arkansas	2,362,124	291,900	291,900
California	30,519,524	3,772,100	3,772,100
Colorado	4,662,926	576,300	576,300
Connecticut	2,894,190	357,700	357,700
Delaware	819,952	101,300	123,600
Florida	18,229,883	2,253,100	2,253,100
Georgia	8,490,546	1,049,400	1,049,400
Hawaii	1,141,525	141,100	141,100
Idaho	1,497,384	185,100	185,100
Illinois	9,844,167	1,216,700	1,216,700
Indiana	5,274,945	652,000	652,000
Iowa	2,476,882	306,100	306,100
Kansas	2,246,209	277,600	277,600
Kentucky	3,509,259	433,700	433,700
Louisiana	3,506,600	433,400	433,400
Maine	1,146,670	141,700	141,700
Maryland	4,818,337	595,500	595,500
Massachusetts	5,659,598	699,500	699,500
Michigan	7,925,350	979,500	979,500
Minnesota	4,436,981	548,400	548,400
Mississippi	2,259,864	279,300	279,300
Missouri	4,821,686	595,900	595,900
Montana	897,161	110,900	123,600
Nebraska	1,497,381	185,100	185,100
Nevada	2,508,220	310,000	310,000
New Hampshire	1,150,004	142,100	142,100
New Jersey	7,280,551	899,800	899,800
New Mexico	1,663,024	205,500	205,500
New York	15,611,308	1,929,500	1,929,500
North Carolina	8,498,868	1,050,400	1,050,400
North Dakota	599,192	74,100	123,600
Ohio	9,207,681	1,138,000	1,138,000
Oklahoma	3,087,217	381,600	381,600
Oregon	3,401,528	420,400	420,400
Pennsylvania	10,332,678	1,277,100	1,277,100
Rhode Island	892,124	110,300	123,600
South Carolina	4,229,354	522,700	522,700
South Dakota	697,420	86,200	123,600
Tennessee	5,555,761	686,700	686,700
Texas	22,942,176	2,835,500	2,835,500
Utah	2,484,582	307,100	307,100
Vermont	532,828	65,900	123,600
Virginia	6,834,154	844,700	844,700
Washington	6,164,810	761,900	761,900
West Virginia	1,417,859	175,200	175,200
Wisconsin	4,661,826	576,200	576,200
Wyoming	454,508	56,200	123,600

[2] Currently, these states are: Alaska, Delaware, North Dakota, South Dakota, Vermont and Wyoming. *See http://www.house.gov/representatives/*.

[3] This expenditure limit does not apply to the District of Columbia, Puerto Rico, American Samoa, Guam, the United States Virgin Islands, and the Northern Mariana Islands because those jurisdictions do not elect Senators. *See* 52 U.S.C. 30116(d)(3)(A); 11 CFR 109.32(b)(2)(i).

3. Expenditure Limitation for President

The national party committees have an expenditure limitation for their general election nominee for President. 52 U.S.C. 30116(d)(2). The formula used to calculate the Presidential expenditure limitation considers not only the price index but also the total VAP of the United States. *Id.* The VAP figure used to calculate the expenditure limitation was certified by the U.S. Census Bureau. The VAP of the United States is also published annually in the **Federal Register** by the U.S. Department of Commerce. 11 CFR 110.18. The formula used to calculate this expenditure limitation is $0.02 multiplied by the total VAP of the United States (262,083,034), multiplied by the difference in the price index, 6.17976. *See* 52 U.S.C. 30116(c)(1)(B), (d)(2); 11 CFR 109.32(a)(2), 110.17. Amounts are rounded to the nearest $100. 52 U.S.C. 30116(c)(1)(B)(iii); 11 CFR 109.32(a)(2), 110.17(c). Based upon this formula, the expenditure limitation for 2024 Presidential nominees is $32,392,200.

Limitations on Contributions by Individuals, Non-Multicandidate Committees and Certain Political Party Committees Giving to U.S. Senate Candidates for the 2023–2024 Election Cycle

For the convenience of the readers, the Commission is also republishing the contribution limitations for individuals, non-multicandidate committees and for certain political party committees giving to U.S. Senate candidates and national party committees for the 2023–2024 election cycle:

Statutory provision	Statutory amount	2023–2024 limit
52 U.S.C. 30116(a)(1)(A)	$2,000	$3,300
52 U.S.C. 30116(a)(1)(B)	25,000	41,300
52 U.S.C. 30116(h)	35,000	57,800

Lobbyist Bundling Disclosure Threshold for 2024

The Act requires certain political committees to disclose contributions bundled by lobbyists/registrants and lobbyist/registrant political action committees once the contributions exceed a specified threshold amount. 52 U.S.C. 30104(i)(1), (i)(3)(A). The Commission must adjust this threshold amount annually to account for inflation. 52 U.S.C. 30104(i)(3)(B). The disclosure threshold is increased by multiplying the $15,000 statutory disclosure threshold by 1.51143, the difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 2006). *See* 52 U.S.C. 30104(i)(3), 30116(c)(1)(B); 11 CFR 104.22(g). The resulting amount is rounded to the nearest multiple of $100. 52 U.S.C. 30104(i)(3)(B), 30116(c)(1)(B)(iii); 11 CFR 104.22(g)(4). Based upon this formula ($15,000 × 1.51143), the lobbyist bundling disclosure threshold for calendar year 2024 is $22,700.

On behalf of the Commission.

Dated: January 23, 2024.

Sean J. Cooksey,

Chairman, Federal Election Commission.

[FR Doc. 2024–01623 Filed 1–26–24; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2024–N–2]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: Contractor Workforce Inclusion Good Faith Efforts—30-day notice of submission of information collection for approval from Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Housing Finance Agency (FHFA or the Agency) is seeking public comments concerning an information collection known as ''Contractor Workforce Inclusion Good Faith Efforts,'' which has been assigned control number 2590–0016 by the Office of Management and Budget (OMB). FHFA intends to submit the information collection to OMB for review and approval of a three-year extension of the control number, which is due to expire on January 31, 2024.

DATES: Interested persons may submit comments on or before February 28, 2024.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: (202) 395–3047, Email: *OIRA_submission@omb.eop.gov*. Please also submit comments to FHFA, identified by ''Proposed Collection; Comment Request: 'Contractor Workforce Inclusion Good Faith Efforts, (No. 2024–N–2)' '' by any of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by *email* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Office of General Counsel, 400 Seventh Street SW, Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: ''Contractor Workforce Inclusion Good Faith Efforts, (No. 2024–N–2).''

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, email address, and telephone number, on the FHFA website at *http://www.fhfa.gov*. Copies of all comments received will be available for examination by the public through the electronic comment docket for this PRA Notice also located on the FHFA website.

FOR FURTHER INFORMATION CONTACT: Takisha Koonce, Office of Minority and Women Inclusion, *Takisha.Koonce@fhfa.gov,* (202) 649–3740; Brent Burris, Associate General Counsel, *Brent.Burris@fhfa.gov,* (202) 731–1083; or Angela Supervielle, Counsel, *Angela.Supervielle@fhfa.gov,* (202) 649–3973 (these are not toll-free numbers); Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

A. Paperwork Reduction Act

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from 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) FHFA's collection of information set forth in this document is titled ''Contractor Workforce Inclusion Good Faith Efforts'' (assigned control number 2590–0016 by OMB). To comply with the PRA requirement, FHFA is publishing notice of a proposed three-year extension of this collection of information, which is due to expire on January 31, 2024.

B. Background

Section 342(a)(1)(A) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Dodd-Frank Act) requires FHFA and certain other Federal agencies each to establish an Office of Minority and Women Inclusion (OMWI) responsible for all matters of the agency relating to diversity in management, employment, and business activities.[1] Section 342(c)(1) requires the OMWI Director at each agency to develop and implement standards and procedures to ensure, to the maximum extent possible, the fair inclusion and utilization of minorities, women, and minority- and women-owned businesses in all business and activities of the agency at all levels, including in procurement, insurance, and all types of contracts. Section 342(c)(2) requires that the OMWI Director include in the agency's procedures for evaluating contract proposals and hiring service providers a component that gives consideration to the diversity of an applicant, to the extent consistent with applicable law. That statutory provision also requires that each agency's procedures include a written statement that a contractor shall ensure, to the maximum extent possible, the fair inclusion of women and minorities in the workforce of the contractor and, as applicable, subcontractors.

Further, section 342(c)(3)(A) of the Dodd-Frank Act requires that each agency's standards and procedures include a procedure for determining whether an agency contractor or subcontractor has failed to make a good faith effort to include minorities and women in its workforce. If the OMWI Director determines that a contractor or subcontractor has failed to make such a good faith effort, section 342(c)(3)(B)(i) provides that the OMWI Director shall recommend to the agency administrator that the contract be terminated. Section 342(c)(3)(B)(ii) provides that, upon receipt of such a recommendation, the agency administrator may either terminate the contract, make a referral to the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor, or take other appropriate action.

As a means of implementing the requirements of section 342(c) of the Dodd-Frank Act, FHFA developed a Minority and Women Inclusion Clause (MWI Clause) that it includes in Agency contracts with a dollar value greater than $150,000. The MWI Clause requires a contractor to confirm its commitment to equal opportunity in employment and contracting, and to implement that commitment by ensuring, to the maximum extent possible consistent with applicable law, the fair inclusion of minorities and women in its workforce. The MWI Clause also requires that a contractor include the substance of the MWI Clause in all subcontracts with a dollar value greater than $150,000 awarded under the contract. (Hereinafter, contractors that are subject to the MWI Clause and subcontractors that are subject to a similar clause required to be included in a subcontract are referred to as ''covered'' contractors and subcontractors.)

Finally, the MWI Clause requires a contractor to provide, when requested by FHFA, documentation demonstrating that the contractor, as well as any covered subcontractor has made a good faith effort to ensure the fair inclusion of minorities and women in its workforce. The MWI Clause provides that such documentation may include, but is not limited to: (1) the contractor's total number of employees, and the number of minority and women employees, by race, ethnicity, and gender (*e.g.,* an EEO–1 Employer Information Report (Form EEO–1)); (2) a list of the subcontracts the contractor awarded including the dollar amount, date of the award, and the ownership status of the subcontractor by race, ethnicity, and/or gender; (3) information similar to that required under the first item above for each subcontractor; and (4) the contractor's plan to ensure that minorities and women have appropriate opportunities to enter and advance within its workforce, including outreach efforts (hereinafter, a ''workforce inclusion plan''). A request for documentation by FHFA pursuant to this provision of the MWI Clause constitutes a ''collection of information'' within the meaning of the PRA.

On March 9, 2018, FHFA finalized its ''Policy Establishing Procedures to Determine Compliance by Contractors with the Minority and Women Inclusion Contract Clause'' (Good Faith Efforts Policy (GFEP)), which establishes a process to determine whether covered contractors or subcontractors are making good faith efforts to ensure the fair inclusion of minorities and women in their respective workforces. The GFEP ensures transparency, clarity, and consistency in the good faith effort review process. Covered contractors agree to provide documentation of the good faith effort they have made in support of this commitment within 10 business days after a request from FHFA. According to the GFEP, ''OMWI will rely on the conclusions of a prior GFE review if OMWI conducted that review within the past two fiscal years.''

C. Need For and Use of the Information Collection

The purpose of this information collection is to fulfill the requirements of section 342(c) of the Dodd-Frank Act. The collected information allows FHFA's OMWI Director to determine whether covered contractors and subcontractors have complied with their contractual obligations to make good faith efforts to ensure, to the maximum extent possible consistent with applicable law, the fair inclusion of minorities and women in their respective workforces.

D. Burden Estimate

FHFA estimates that the average annual burden imposed on all respondents by this information collection over the next three years will be 725 hours. Because, as explained below, the amount of burden imposed upon a contractor by this information collection will differ depending upon whether the contractor has 50 or more employees, FHFA has based its total burden estimate on two separate sets of calculations—(1) one for contractors and subcontractors with 50 or more employees (30 hours); and (2) another for contractors and subcontractors with fewer than 50 employees (695 hours).

FHFA includes the MWI Clause in Agency contracts with a dollar value greater than $150,000. Under the MWI Clause, FHFA may also request information about covered subcontractors' ownership status, workforce demographics, and workforce inclusion plans. Contractors would request this information from their covered subcontractors, who, because the substance of the MWI Clause would be included in their subcontracts, would have a contractual obligation to keep

[1] 12 U.S.C. 5452.

records and report data as required under the MWI Clause.

FHFA data on the dollar value of contracts awarded by the Agency from the beginning of fiscal year 2020 through fiscal year 2023 shows that 165 contractors were subject to the MWI Clause. FHFA believes that 85 of those contractors have 50 or more employees, while 80 contractors have fewer than 50 employees. FHFA estimates that no more than two subcontracts with a dollar value of $150,000 or more were awarded by Agency contractors during that same time period. Both of those subcontractors have 50 or more employees each. Thus, over the preceding three years, a total of 167 contractors and subcontractors were subject to the MWI Clause—87 of which have 50 or more employees and 80 of which have fewer than 50 employees.

Based on these figures, FHFA estimates that, on average over the next three years, 87 contractors and subcontractors with 50 or more employees and 80 contractors or subcontractors with fewer than 50 employees will be subject to the MWI Clause at any given time. As mentioned above, the GFEP provides that OMWI will rely on the conclusions of a prior GFE review if OMWI conducted that review within the past two fiscal years. Accordingly, a covered contractor or subcontractor is required to submit new information only once within any three-year period.

(1) Documentation Submitted by Contractors With 50 or More Employees

FHFA estimates that the average annual burden on contractors with 50 or more employees will be 30 hours (0 recordkeeping hours + 30 reporting hours). Because Federal contractors with 50 or more employees are already required to maintain the same types of records that may be requested pursuant to the MWI Clause under regulations implementing Title VII of the Civil Rights Act of 1964 [2] and Executive Order 11246 (E.O. 11246),[3] this information collection does not impose additional recordkeeping burdens on such contractors and subcontractors. FAR 52.222–26, Equal Opportunity, requires that such contractors' contracts and subcontracts include a clause implementing E.O. 11246. OFCCP regulations require each contractor with 50 or more employees and a Federal contract or subcontract of $50,000 or more to maintain records on the race, ethnicity, gender, and EEO–1 job category of each employee.[4] OFCCP regulations also require each such contractor to: (1) demonstrate that it has made a good faith effort to remove identified barriers, expand employment opportunities, and produce measurable results; [5] and (2) develop and maintain a written program summary describing the policies, practices, and procedures that the contractor uses to ensure that applicants and employees received equal opportunities for employment and advancement.[6] In lieu of creating and maintaining a separate workforce inclusion plan to submit in satisfaction of the MWI Clause, a contractor or subcontractor with 50 or more employees could submit the written program summary that it is already required to maintain under the OFCCP regulations to demonstrate its good faith efforts to ensure the fair inclusion of minorities and women in its workforce.

With respect to reporting burden, FHFA estimates that it will take each contractor or subcontractor with 50 or more employees approximately one hour to retrieve, review, and submit the documentation specified in the MWI Clause. Thus, the estimate of the triennial burden upon contractors or subcontractors with 50 or more employees associated with reporting requirements under this information collection is 87 hours (87 respondents x 1 hour per respondent) and the annual burden is 30 hours.

(2) Documentation Submitted by Contractors With Fewer Than 50 Employees

FHFA estimates that the average annual burden on contractors and subcontractors with fewer than 50 employees will be 695 hours (667 recordkeeping hours + 28 reporting hours). OFCCP regulations require contractors with fewer than 50 employees to maintain records on the race, ethnicity, and gender of each employee.[7] FHFA believes that such contractors also keep EEO–1 job category information in the normal course of business, despite the fact that they are not required by law to do so. However, contractors or subcontractors with fewer than 50 employees may not have the type of written program summary that is required of larger contractors under the OFCCP regulations or any similar document that could be submitted as a workforce inclusion plan under the MWI Clause. Accordingly, such contractors or subcontractors may need to create a workforce inclusion plan to comply with the MWI Clause.

In order to estimate the burden associated with creating a workforce inclusion plan, FHFA considered the OFCCP's burden estimates for the time needed to develop the written program summaries required under its regulations.[8] In its OMB Supporting Statement, the OFCCP estimated that a contractor with 1 to 100 employees would take approximately 73 hours to create an initial written program summary. While the OFCCP regulations require contractors to perform time-consuming quantitative analyses when developing their written program summaries, such analyses would not be required in connection with the creation of a workforce inclusion plan. For this reason, FHFA believes that a contractor could develop a workforce inclusion plan in about one-third of the time that it would take to develop the written program summary required under the OFCCP regulations.

FHFA estimates that a contractor or subcontractor with fewer than 50 employees would spend approximately 25 hours creating a workforce inclusion plan for the first time. It is likely that, going forward, many small contractors and subcontractors will simply submit updated versions of workforce inclusion plans that they have submitted previously. For purposes of this burden estimate, however, FHFA has assumed that all small contractors and subcontractors will need to create a new plan every time they are required to submit information under the MWI clause. This results in an estimated average triennial recordkeeping burden on all contractors and subcontractors with fewer than 50 employees over the next three years of 2,000 hours (80 respondents × 25 hours per respondent), with an annual burden of 667 hours.

As with larger entities, FHFA estimates that it will take each contractor and subcontractor with fewer than 50 employees approximately one hour to retrieve, review, and submit the documentation specified in the MWI Clause. Thus, FHFA estimates that the average triennial reporting burden on all contractors and subcontractors with fewer than 50 employees will be 80 hours (80 respondents × 1 hour per respondent), with an annual burden of 28 hours.

[2] 42 U.S.C. 2000e, *et seq.*

[3] E.O. 11246, 30 FR 12319 (Sept. 28, 1965).

[4] *See* 41 CFR 60–1.7.

[5] *See* 41 CFR 60–2.17.

[6] *See* 41 CFR 60–2.31.

[7] *See* 41 CFR 60–3.4.

[8] *See* PRA Supporting Statement for the OFCCP Recordkeeping and Requirements-Supply and Service Program, OMB Control No. 1250–0003, at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201906-1250-001.*

E. Comment Request

In accordance with the requirements of 5 CFR 1320.8(d), FHFA published an initial notice and request for public comments regarding this information collection in the **Federal Register** on November 16, 2023.[9] The 60-day comment period closed on January 16, 2024. FHFA did not receive any comments that were relevant to the Agency's collection of information described in this PRA Notice.

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Shawn Bucholtz,

Chief Data Officer, Federal Housing Finance Agency.

[FR Doc. 2024–01682 Filed 1–26–24; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Government Securities Dealers Reports (FR 2004; OMB No. 7100–0003).

DATES: Comments must be submitted on or before March 29, 2024.

ADDRESSES: You may submit comments, identified by FR 2004, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M–4775, 2001 C St NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M–4365A, 2001 C St NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays, except for Federal holidays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, *nuha.elmaghrabi@frb.gov,* (202) 452–3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportingforms/home/review* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Collection title: Government Securities Dealers Reports.

Collection identifier: FR 2004.

OMB control number: 7100–0003.

General description of collection: This information collection is comprised of the:

- Weekly Report of Dealer Positions (FR 2004A),
- Weekly Report of Cumulative Dealer Transactions (FR 2004B),
- Weekly Report of Dealer Financing and Fails (FR 2004C),
- Weekly Report of Specific Issues (FR 2004SI),
- Daily Report of Specific Issues (FR 2004SD),

[9] *See* 88 FR 78751 (Nov. 16, 2023).

- Supplement to the Daily Report of Specific Issues (FR 2004SD ad hoc),
- Daily Report of Dealer Activity in Treasury Financing (FR 2004WI),
- Settlement Cycle Report of Dealer Fails and Transaction Volumes: Class A (FR 2004FA),
- Settlement Cycle Report of Dealer Fails and Transaction Volumes: Class B (FR 2004FB),
- Settlement Cycle Report of Dealer Fails and Transaction Volumes: Class C (FR 2004FC), and
- Settlement Cycle Report of Dealer Fails and Transaction Volumes (FR 2004FM).

The Federal Reserve Bank of New York, on behalf of the Federal Reserve System, collects data from primary dealers in the U.S. government securities market. Filing of these data is required to obtain the benefit of primary dealer status. The Federal Reserve uses these data to (1) monitor the condition of the U.S. government securities market in its Treasury market surveillance and analysis of the market and (2) assist and support the U.S. Department of the Treasury (Treasury) in its role as fiscal agent for Treasury financing operations. In addition, these data are used in the analysis of broad financial conditions and a range of financial stability issues.

Proposed revisions: Since the last clearance, a new type of repo financing called ''sponsored general collateral repo'' has gained significant popularity among clients of primary dealers. Such type of financing is not separately listed in the current FR 2004C. To improve our ability to track the usage of this product by primary dealers, the Board proposes to revise the FR 2004C for each asset category by adding three columns to separately capture sponsored general collateral Triparty Repo financing by maturity tenors. The proposed revisions would be effective with the first applicable as of date, June 5, 2024.

Frequency: Weekly, monthly, and event-generated.

Respondents: Primary government security dealers.

Total estimated number of respondents: 24.

Total estimated change in burden: 1,310.

Total estimated annual burden hours: 35,189.[1]

[1] More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at *https://www.federalreserve.gov/apps/reportingforms/home/review.* On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR 2004.

Board of Governors of the Federal Reserve System, January 23, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–01631 Filed 1–26–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Recordkeeping Requirements Associated with Regulation H (Real Estate Lending Standards Regulation for State Member Banks) (FR H–5; OMB No. 7100–0261).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, *nuha.elmaghrabi@frb.gov,* (202) 452–3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportingforms/home/review* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Collection title: Recordkeeping Requirements Associated with Regulation H (Real Estate Lending Standards Regulation for State Member Banks).

Collection identifier: FR H–5.

OMB control number: 7100–0261.

General description of collection: This information collection includes a recordkeeping requirement associated with Regulation H—Membership of State Banking Institutions in the Federal Reserve System (12 CFR part 208) that implements section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991. Pursuant to Regulation H, state member banks must adopt and maintain written real estate lending policies. Additionally, this information collection includes voluntary recordkeeping provisions in the Interagency Guidelines for Real Estate Lending Policies.

Frequency: On-going.

Respondents: State member banks.

Total estimated number of respondents: 701.

Total estimated annual burden hours: 17,545.[1]

Current actions: On July 19, 2023, the Board published a notice in the **Federal Register** (88 FR 46164) requesting public comment for 60 days on the extension, without revision, of the FR H–5. The comment period for this notice expired on September 18, 2023. The Board did not receive any comments relevant to this collection or to the PRA.

Board of Governors of the Federal Reserve System, January 23, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–01644 Filed 1–26–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

[1] More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at *https://www.federalreserve.gov/apps/reportingforms/home/review.* On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR H–5.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Interagency Notice of Change in Control, Interagency Notice of Change in Director or Senior Executive Officer, and Interagency Biographical and Financial Report (FR 2081a, b, and c; OMB No. 7100–0134).

DATES: Comments must be submitted on or before March 29, 2024.

ADDRESSES: You may submit comments, identified by FR 2081a, FR 2081b, or FR 2081c by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M–4775, 2001 C St NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M–4365A, 2001 C St NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays, except for Federal holidays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, *nuha.elmaghrabi@frb.gov,* (202) 452–3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportingforms/home/review* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collections, which are being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collections of information are necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collections

Collection title: Interagency Notice of Change in Control.

Collection identifier: FR 2081a.

OMB control number: 7100–0134.

General description of collection: The FR 2081a must be submitted in connection with the acquisition or, in certain circumstances, the retention of control of a state member bank (SMB), savings and loan holding company (SLHC), or bank holding company (BHC) (or group of BHCs or SLHCs) by an individual, a group of individuals, a company, or a group of companies that would not be BHCs or SLHCs after consummation of the proposed transaction. The notice must be submitted to the appropriate Reserve Bank. The notice must include a description of the proposed transaction, the purchase price and funding source, the personal and financial information of the proposed acquirer(s), and any proposed new management.

Frequency: Event-generated.

Respondents: SMBs, BHCs, SLHCs, and associated individuals.

Total estimated number of respondents: 153.

Estimated average hours per response: Reporting, 17; Disclosure, 1.

Total estimated annual burden hours: 2,754.

Collection title: Interagency Notice of Change in Director or Senior Executive Officer.

Collection identifier: FR 2081b.

OMB control number: 7100–0134.

General description of collection: The FR 2081b is used, under certain circumstances, to notify the appropriate Reserve Bank of a proposed change to an institution's board of directors or senior executive officers. The notice must be filed if the institution is not in compliance with all minimum capital requirements, is in troubled condition, or is otherwise required by the Board to provide such notice. The reporting form may be filed by the relevant SMB, SLHC, or BHC, or by the affected individual.

Frequency: Event-generated.

Respondents: SMBs, BHCs, SLHCs, and associated individuals.

Total estimated number of respondents: 112.

Estimated average hours per response: 2.

Total estimated annual burden hours: 224.

Collection title: Interagency Biographical and Financial Report.

Collection identifier: FR 2081c.

OMB control number: 7100–0134.

General description of collection: The FR 2081c is used by certain shareholders, directors, and executive officers in connection with the FR 2081a, FR 2081b, as well as applications for BHC and SLHC formations, acquisitions, and mergers, among other filings. Information requested on this reporting form is subject to verification and must be complete. As with all the notices and reporting forms, requests for clarification or supplementation of the original filing may be necessary. The FR 2081c requests the following information: (1) certain biographical information, such as personal information, employment records, education and professional credentials, and business and banking affiliations; (2) certain legal and related information; and (3) a financial report on the notificant, including a balance sheet, a cash flow statement, and various supporting schedules.

Frequency: Event-generated.

Respondents: SMBs, BHCs, SLHCs, and associated individuals.

Total estimated number of respondents: 906.

Estimated average hours per response: 5.

Total estimated annual burden hours: 4,530.[1]

Board of Governors of the Federal Reserve System, January 23, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–01645 Filed 1–26–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Interagency Bank Merger Act Application (FR 2070; OMB No. 7100–0171).

DATES: Comments must be submitted on or before March 29, 2024.

ADDRESSES: You may submit comments, identified by FR 2070, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M–4775, 2001 C St NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M–4365A, 2001 C St NW, Washington, DC 20551, between 9 a.m. and 5 p.m. on weekdays, except for Federal holidays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, *nuha.elmaghrabi@frb.gov,* (202) 452–3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportingforms/home/review* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

[1] More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at *https://www.federalreserve.gov/apps/reportingforms/home/review.* On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR 2081a, FR 2081b, or FR 2081c.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Collection title: Interagency Bank Merger Act Application.

Collection identifier: FR 2070.

OMB control number: 7100–0171.

General description of collection: The Board, Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation each use this reporting form to collect information on depository institution merger proposals that require prior approval under the Bank Merger Act. The Board collects the information gathered by the FR 2070 so that it may meet its statutory obligations with respect to each merger proposal in which the acquiring, assuming, or resulting bank would be a state member bank (SMB).

Frequency: Event-generated.

Respondents: SMBs regulated by the Federal Reserve.

Total estimated number of respondents: 65.

Total estimated annual burden hours: 2,183.[1]

Board of Governors of the Federal Reserve System, January 23, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–01647 Filed 1–26–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Regulation R (FR R; OMB No. 7100–0316).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, *nuha.elmaghrabi@frb.gov,* (202) 452–3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportingforms/home/review* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Collection title: Recordkeeping and Disclosure Requirements Associated with Regulation R.

Collection identifier: FR R.

OMB control number: 7100–0316.

General description of collection: The Board's Regulation R—Exceptions for Banks from the Definition of Broker in the Securities Exchange Act of 1934 (12 CFR part 218) implements certain exceptions for banks from the definition of broker under section 3(a)(4) of the Securities Exchange Act of 1934 (Exchange Act). Sections 701, 723, and 741 of Regulation R contain certain recordkeeping provisions for banks that utilize the exceptions in the Exchange Act and certain customer and counterparty disclosure requirements.

Frequency: Event-generated.

Respondents: Banks, as defined in the Exchange Act, that qualify for the exemptions from the Exchange Act definition of broker.

Total estimated number of respondents: 3,185.

Total estimated annual burden hours: 62,709.[1]

Current actions: On September 11, 2023, the Board published a notice in the **Federal Register** (88 FR 62363) requesting public comment for 60 days on the extension, without revision, of the FR R. The comment period for this notice expired on November 13, 2023. The Board did not receive any comments.

Board of Governors of the Federal Reserve System.

January 23, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–01643 Filed 1–26–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Regulation H (Securities Transactions by State Member Banks) (FR H–3; OMB No. 7100–0196).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, *nuha.elmaghrabi@frb.gov,* (202) 452–3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are

[1] More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at *https://www.federalreserve.gov/apps/reportingforms/home/review.* On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR 2070.

[1] More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at *https://www.federalreserve.gov/apps/reportingforms/home/review.* On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR R.

incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportingforms/home/review* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Collection title: Recordkeeping and Disclosure Requirements Associated with Regulation H (Securities Transactions by State Member Banks).

Collection identifier: FR H–3.

OMB control number: 7100–0196.

General description of collection: Section 15C of the Securities Exchange Act of 1934, establishes federal regulation of brokers and dealers of government securities, including banks and other financial institutions, and directs those brokers and dealers to keep certain records.[1] These requirements are implemented for state member banks (SMBs) by sections 208.34(c), (d), and (g) of the Board's Regulation H, which require that non-exempt SMBs [2] effecting securities transactions for customers establish and maintain a system of records of these transactions, furnish confirmations of transactions to customers that disclose certain information, and establish written policies and procedures relating to securities trading.

Frequency: Event-generated, quarterly.

Respondents: SMBs, SMB officers/employees.

Total estimated number of respondents: 3,368.

Total estimated annual burden hours: 100,774.[3]

Current actions: On September 11, 2023, the Board published a notice in the **Federal Register** (88 FR 62366) requesting public comment for 60 days on the extension, without revision, of the FR H–3. The comment period for this notice expired on November 13, 2023.

Board of Governors of the Federal Reserve System, January 23, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–01630 Filed 1–26–24; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than February 13, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *The CN 2023 Dynasty Trust, Milwaukee, Wisconsin, Gregory P. Nicklaus, Arbor Vitae, Wisconsin, and Peter J. Wilder, Pewaukee, Wisconsin, as co- trustees; and the DN 2023 Dynasty Trust, Milwaukee, Wisconsin, Todd R. Nicklaus, Rothschild, Wisconsin, and Peter J. Wilder, as co-trustees;* to join the Nicklaus Family Control Group, a group acting in concert, to acquire voting shares of River Valley Bancorporation, Inc., and thereby indirectly acquire voting shares of IncredibleBank, both of Wausau, Wisconsin.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–01718 Filed 1–26–24; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking

[1] 15 U.S.C. 78o–5.

[2] The requirements of section 208.34 of Regulation H apply to all state member banks that effect more than 500 government securities brokerage transactions per year, unless the institution has filed a written notice, or is required to file notice, with the Board that it acts as a government securities broker or a government securities dealer. These requirements also do not apply to activities of foreign branches of SMBs; activities of nonmember, non-insured trust company subsidiaries of bank holding companies; or activities that are subject to regulations promulgated by the Municipal Securities Rulemaking Board. In addition, SMBs with an annual average of less than 200 securities transactions for customers over the prior three calendar years (exclusive of transactions in U.S. government and agency obligations) are exempt from these Regulation H recordkeeping and disclosure requirements. See 12 CFR 208.34(a)(1)(i)–(iv).

[3] More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at *https://www.federalreserve.gov/apps/reportingforms/home/review.* On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR H–3.

company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843) and interested persons may express their views in writing on the standards enumerated in section 4. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than February 28, 2024.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to: *BOS.SRC.Applications.Comments@bos.frb.org.*

1. *Maine Community Bancorp, MHC, and its subsidiary, Maine Community Bancorp, Inc., both of Auburn, Maine;* to merge with Gorham Bancorp, MHC, and Gorham Bancorp, Inc., respectively, both of Gorham, Maine, and thereby indirectly acquire Gorham Savings Bank, Gorham, Maine.

In addition, Maine Community Bancorp, MHC, and Maine Community Bancorp, Inc., to indirectly acquire Bigelow Investment Advisors, LLC, and thereby engage in financial and investment advisory activities pursuant to § 225.28(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024–01720 Filed 1–26–24; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0163; Docket No. 2023–0001; Sequence No. 5]

Submission for OMB Review; General Services Administration Acquisition Regulation; Contract Solicitation Information

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection regarding GSA solicitations issued for various supplies and services.

DATES: Submit comments on or before: February 28, 2024.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments''; or by using the search function.

FOR FURTHER INFORMATION CONTACT: Mr. Clarence Harrison, Procurement Analyst, at *GSARPolicy@gsa.gov* or 202–227–7051.

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA requires organizations desiring to do business with GSA for various supplies and services to provide procurement-related information through solicitations issued in accordance with the Federal Acquisition Regulation (FAR) Part 12, 14, 15 and 16 procedures. Using solicitation methods such as Requests for Proposals (RFP), Requests for Information (RFI), and Broad Agency Announcements (BAA), GSA requests information from prospective offerors such as pricing information, delivery schedule compliance, and evidence that the offeror has the resources (both human and financial) to accomplish requirements. Much of the solicitation information collected is covered by FAR clauses and the separate information collection approvals associated with them. Other GSA solicitation requirements call for more detailed or technical information to be provided, such as project management or sustainability plans, and drive the need for this information collection.

B. Annual Reporting Burden

Respondents: 338,465.
Responses per Respondent: 1.
Total Responses: 338,465.
Hours per Response: 2.
Total Burden Hours: 676,930.

C. Public Comments

A 60-day notice published in the **Federal Register** at 88 FR 81083 on November 21, 2023. No comments were received.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the Regulatory Secretariat Division, at *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–0163, Contract Solicitation Information, in all correspondence.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2024–01697 Filed 1–26–24; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

[FMR Bulletin C–2024–01]

Guidelines for Safety Station Programs in Federal Facilities; Correction

AGENCY: Department of Health and Human Services and General Services Administration.

ACTION: Notice; correction.

SUMMARY: The General Services Administration published a document in the **Federal Register** of December 22, 2023, concerning a Federal Management Regulation (FMR) bulletin titled ''*Guidelines for Safety Station Programs in Federal Facilities.*''

FOR FURTHER INFORMATION CONTACT: For further clarification of content, contact Christopher Coneeney, Supervisory Realty Specialist, Office of Government-wide Policy, U.S. General Services Administration, 1800 F Street NW, Washington, DC 20405; at 202–208–2956; or *chris.coneeney@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 22, 2023, in FR Doc. 2023–28207, on page 88620, in the first column, add a sentence after the last paragraph to read as follows:

For further information, please read FMR Bulletin C–2024–01, Guidelines for Safety Station Programs in Federal Facilities, available at *https://www.gsa.gov/policy-regulations/regulations/federal-management-regulation/fmr-and-related-files#RealPropertyManagement.*

Krystal J. Brumfield,

Associate Administrator, Office of Government-wide Policy, U.S. General Services Administration.

Rachel L. Levine,

Assistant Secretary for Health, U.S. Department of Health and Human Services.

[FR Doc. 2024–01668 Filed 1–26–24; 8:45 am]

BILLING CODE 6820–14–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 information collection project ''Generic Clearance for Questionnaire and Data Collection Testing, Evaluation, and Research for the Agency for Healthcare Research and Quality.'' This proposed information collection was previously published in the **Federal Register** on November 13th, 2023 and allowed 60 days for public comment. AHRQ received no substantive comments from members of the public. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by February 28, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

Questionnaire and Data Collection Testing, Evaluation, and Research for the Agency for Healthcare Research and Quality

The Agency for Healthcare Research and Quality (AHRQ) requests that the Office of Management and Budget (OMB) re-approve generic pre-testing clearance 0935–0124 for three years to facilitate AHRQ's efforts to (1) employ evaluation-type methods and techniques to improve AHRQ's current data collection and estimation procedures, (2) develop new collections and procedures, including toolkits, and (3) revise existing collections and procedures. AHRQ believes that developing, testing, and evaluating data collection and estimation procedures using survey methods and other techniques in anticipation of agency-sponsored studies can improve its information collection efforts and the products it develops and allow AHRQ to be more responsive to fast-changing developments in the healthcare research field.

This clearance request is limited to research on data collection, toolkit development, and estimation procedures and reports and does not extend to the collection of data for public release or policy formation. The current Clearance (0935–0124) was granted on January 31, 2021, and expires on January 31, 2024.

This generic clearance will allow AHRQ to draft and test toolkits, survey instruments and other data collection and estimation procedures more quickly and with greater lead time, thereby managing project time more efficiently and improving the quality of the data AHRQ collects. In some instances, the ability to test and evaluate toolkits, data collection and estimation procedures in anticipation of work or early in a project may result in the decision not to proceed with additional activities, thereby saving both public and private resources and effectively eliminating respondent burden.

These preliminary research activities will not be used by AHRQ to regulate or sanction its customers. They will be entirely voluntary, and the confidentiality of respondents and their responses will be preserved. Proposed information collections submitted under this generic clearance will be submitted for review by OMB with a response expected in 14 days.

Method of Collection

The information collected through preliminary research activities under this generic clearance will be used by AHRQ to employ techniques to (1) improve AHRQ's current data collection and estimation procedures, (2) develop new collections and procedures, including toolkits, and (3) revise existing collections and procedures in anticipation or in response to changes in the health or health care field. The end result will be improvement in AHRQ's data collections and procedures, and the quality of data collected, a reduction or minimization of respondent burden, increased agency efficiency, and improved responsiveness to the public.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours, over the full three years of this clearance, for the respondents' time to participate in the research activities that may be conducted under this generic clearance. Mail surveys will be conducted with about 6,000 persons (2,000 per year for three years) and are estimated to average 20 minutes. Mail surveys may also be sent to respondents via email and may include a telephone non-response follow-up. Telephone non-response follow-up for mailed surveys is not counted as a telephone survey in Exhibit 1. Not more than 600 persons, over three years, will participate in telephone surveys that will take about 40 minutes. Web-based surveys will be conducted with no more than 3,000 persons and will require no more than 10 minutes to complete. About 1,500 persons will participate in focus groups which may last up to two hours, while in-person interviews will be conducted with 600 persons and will take about 50 minutes. Automated data collection will be conducted for about 1,500 persons and could take up to 1 hour. Cognitive testing will be conducted with about 600 persons and is estimated to take 1.5 hours to complete. The total burden over three years is estimated to be 8,900 hours (about 2,967 hours per year). Exhibit 2 shows the estimated cost burden over three years, based on the respondents' time to participate in these research activities. The total cost burden is estimated to be $412,028.

EXHIBIT 1—ESTIMATED BURDEN HOURS OVER 3 YEARS

Type of information collection	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Mail/email *	6,000	1	20/60	2,000

EXHIBIT 1—ESTIMATED BURDEN HOURS OVER 3 YEARS—Continued

Type of information collection	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Telephone	600	1	40/60	400
Web-based	3,000	1	10/60	500
Focus Groups	1,500	1	2.0	3,000
In-person	600	1	1.0	600
Automated**	1,500	1	1.0	1,500
Cognitive Testing***	600	1	1.5	900
Totals	13,800	na	na	8,900

* May include telephone non-response follow-up in which case the burden will not change.
** May include testing of database software, CAPI software or other automated technologies.
*** May include cognitive interviews for questionnaire or toolkit development, or ''think aloud'' testing of prototype websites.

EXHIBIT 2—ESTIMATED COST BURDEN OVER 3 YEARS

Type of information collection	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Mail/email	6,000	2,000	$46.52	$93,040
Telephone	600	400	46.52	18,608
Web-based	3,000	500	46.52	23,260
Focus Groups	1,500	3,000	46.52	139,560
In-person	600	600	46.52	27,912
Automated	1,500	1,500	46.52	69,780
Cognitive Testing	600	900	46.52	41,868
Totals	13,800	8,900	na	412,028

* Bureau of Labor & Statistics on ''Occupational Employment and Wages, May 2022'' found at the following URL *https://www.bls.gov/oes/current/oes_nat.htm#29-0000* for the respondents.

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: January 18, 2024.

Marquita Cullom,

Associate Director.

[FR Doc. 2024–01610 Filed 1–26–24; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Reorganization of the Office of Strategic Business Initiatives

AGENCY: Centers for Disease Control and Prevention (CDC), the Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: CDC has modified its structure. This notice announces the reorganization of the Office of Strategic Business Initiatives (SBI) to transfer its management of the CDC Gift Review Panel to the Office of Policy, Performance, and Evaluation.

DATES: This reorganization was approved by the Director of CDC on January 17, 2024.

FOR FURTHER INFORMATION CONTACT: Kimberly Thurmond, Office of the Chief Operating Officer, Office of the Director, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS TW–2, Atlanta, GA 30329. Telephone 770–488–4401; Email: *reorgs@cdc.gov.*

SUPPLEMENTARY INFORMATION: Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 88 FR 69188–69190, dated October 5, 2023) is amended to reflect the reorganization of the Office of Strategic Business Initiatives within the Office of the Chief Operating Officer, Centers for Disease Control and Prevention. Specifically, the changes are as follows:

I. Under Part C, Section C–B, Organization and Functions

- Change all instances of the acronym SBI to OSBI.
- Delete item (2) of the OSBI (CAJT) functional statement and insert the following: (2) strengthens CDC's administrative guidance and change management through agency-wide conference, policy, delegations of authority, organization and functions, and records management.

• Delete item (5) of the Office of Business Integrity and Strategic Management (CAJTB) functional statement and renumber the remaining items accordingly.

Delegations of Authority

All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegation, provided they are consistent with this reorganization.

(Authority: 44 U.S.C. 3101)

Dia Taylor,

Acting Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2024–01708 Filed 1–26–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10858, CMS–10215 and CMS–10394]

Agency Information Collection Activities: Proposed Collection; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by March 29, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing*.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10858 Rebate Reduction Requests under Sections 11101 and 11102 of the Inflation Reduction Act

CMS–10215 Identifying Medicaid Payment for Physician Administered Drugs

CMS–10394 Application To Be a Qualified Entity to Receive Medicare Data for Performance Measurement/Reapplication/Annual Report Worksheet

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: New collection (Request for a new OMB control number); *Title of Information Collection:* Rebate Reduction Requests under Sections 11101 and 11102 of the Inflation Reduction Act; *Use:* Under the authority in sections 11101 and 11102 of the Inflation Reduction Act of 2022 (Pub. L. 117–169), the Centers for Medicare & Medicaid Services (CMS) is implementing the Medicare Part B Drug Inflation Rebate Program and the Medicare Part D Drug Inflation Rebate Program codified in section 1847A(i) and section 1860D–14B of the Social Security Act (''the Act''), respectively. In accordance with section 1847A(i) of the Act, for calendar quarters beginning January 1, 2023, a manufacturer of a Part B rebatable drug will owe a rebate, to be deposited in the Federal Supplementary Medical Insurance Trust Fund, if the amount specified in section 1847A(i)(3)(A)(ii)(I) of the Act exceeds the inflation-adjusted payment amount, which is calculated as set forth in section 1847A(i)(3)(C) of the Act. A ''Part B rebatable drug'' means a single-source drug or biological product (as defined section 1847A(c)(6)(D) of the Act), including a biosimilar biological product (as defined section 1847A(c)(6)(H) of the Act) but excluding a qualifying biosimilar biological product (as defined section 1847A(b)(8)(B)(iii) of the Act), for which payment is made under Medicare Part B, except such term shall not include such a drug or biological product if, as determined by the Secretary, the average total allowed charges for such drug or biological product under Part B for a year per individual that uses such a drug or biological product are less than the applicable threshold; or that is a vaccine described in subparagraph (A) or (B) of section 1861(s)(10) of the Act. In accordance with Section 1860D–14B of the Act, for each 12-month applicable period, starting with the applicable period beginning October 1, 2022, a manufacturer of a Part D rebatable drug will owe a rebate, to be deposited in the Federal Supplementary Medical Insurance Trust Fund, if the annual

manufacturer price exceeds the inflation-adjusted payment amount. Section 1860D–14B(g)(1)(A) of the Act defines a ''Part D rebatable drug,'' in part, as a drug or biological described at section 1860D–14B(g)(1)(C) that is a ''covered Part D drug'' as that term is defined in section 1860D–2(e) of the Act. The definition of a Part D rebatable drug includes generic drugs that meet certain statutory criteria (effectively sole source generics). The definition of a Part D rebatable drug does not include a drug or biological if, as determined by the Secretary, the ''average annual total cost'' for such drug or biological under Part D for a year per individual that uses such a drug or biological is less than the applicable threshold.

Sections 1847A(i)(3)(G)(ii) and 1860D–14B(b)(1)(C)(ii) of the Act require that CMS reduce or waive the inflation rebate amount owed (if any) for a Part B rebatable biosimilar biological product and generic Part D rebatable drug or biosimilar when CMS determines there is a severe supply chain disruption during a calendar quarter or applicable period, respectively, such as that caused by a natural disaster or other unique or unexpected event. CMS must also reduce or waive the inflation rebate amount owed (if any) for a generic Part D rebatable drug if CMS determines that without such reduction or waiver, the drug is likely to be in shortage in a subsequent applicable period, as required by section 1860D–14B(b)(1)(C)(iii) of the Act.

CMS does not have information necessary to determine whether manufacturers of Part B and Part D rebatable drugs should have their rebate amount reduced due to either a severe supply chain disruption or a likely shortage as required by sections 1847A(i)(3)(G)(ii), 1860D–14B(b)(1)(C)(ii), and 1860D–14B(b)(1)(C)(iii) of the Act. Some of the information and supporting documentation needed for CMS to make a determination regarding a severe supply chain disruption and the likelihood of a future shortage are held by manufacturers and are not available to CMS. As such, for CMS to determine whether there is a severe supply chain disruption or likelihood of future shortage, in accordance with sections 1847A(i)(3)(G)(ii), 1860D–14B(b)(1)(C)(ii), and 1860D–14B(b)(1)(C)(iii) of the Act, a manufacturer must submit to CMS a request for a rebate reduction along with supporting documentation. *Form Number:* CMS–10858 (OMB control number: 0938–New); *Frequency:* Once; *Affected Public:* Private sector and business or other for-profits; *Number of Respondents:* 10; *Total Annual Responses:* 20; *Total Annual Hours:* 620. (For policy questions regarding this collection contact Elisabeth Daniel at 667–290–8793.)

2. Type of Information Collection Request: Extension of currently approved collection; *Title of Information Collection:* Identifying Medicaid Payment for Physician Administered Drugs; *Use:* States are required to provide for the collection and submission of utilization data for certain physician-administered drugs in order to receive Federal financial participation for these drugs. Physicians, serving as respondents to States, submit National Drug Code numbers and utilization information for ''J'' code physician-administered drugs so that the States will have sufficient information to collect drug rebate dollars. *Form Number:* CMS–10215 (OMB control number: 0938–1026); *Frequency:* Weekly; *Affected Public:* Business or other for-profits and not-for-profit institutions); *Number of Respondents:* 26,000; *Total Annual Responses:* 39,053,932; *Total Annual Hours:* 162,074. (For policy questions regarding this collection contact Michael Forman at 410–786–2666.)

2. *Type of Information Collection Request:* Revision with change of a currently approved collection; *Title of Information Collection:* Application to be a Qualified Entity to Receive Medicare Data for Performance Measurement/Reapplication/Annual Report Worksheet; *Use:* The Patient Protection and Affordable Care Act (ACA) was enacted on March 23, 2010 (Pub. L. 111–148). ACA amends section 1874 of the Social Security Act by adding a new subsection (e) to make standardized extracts of Medicare claims data under Parts A, B, and D available to QEs to evaluate the performance of providers of services and suppliers. This is the Application, Reapplication, and ARW which provides CMS with the information it needs to determine whether an organization earns approval and continues as a QE.

CMS established the Qualified Entity Certification Program (QECP) to evaluate an organization's eligibility across three areas: (1) organizational and governance capabilities, (2) addition of claims data from other sources (as required in the statute), and (3) data privacy and security. QE certification lasts for 3 years. Organizations that are interested in remaining in the QE program must submit a Reapplication that is reviewed and approved by QECP. In addition, each year QEs must submit an annual report to QECP that provides information required by statute. *Form Number:* CMS–10394 (OMB control number: 0938–1144); *Frequency:* Yearly; *Affected Public:* Business or other for-profits; *Number of Respondents:* 40; *Total Annual Responses:* 210; *Total Annual Hours:* 17,400. (For policy questions regarding this collection contact Kari Gaare at *kari.gaare@cms.hhs.gov*).

Dated: January 24, 2024.

William N. Parham, III

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–01723 Filed 1–26–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), Office of Pharmaceutical Quality (OPQ) has modified its organizational structure. This new structure was approved by the Secretary of Health and Human Services on August 10, 2023.

FOR FURTHER INFORMATION CONTACT: Michael Kopcha, Director, Office of Pharmaceutical Quality, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 240–402–2461.

SUPPLEMENTARY INFORMATION:

I. Introduction

Part D, Chapter D–B, (Food and Drug Administration), the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, 60 FR 56606, November 9, 1995, 64 FR 36361, July 6, 1999, 72 FR 50112, August 30, 2007, 74 FR 41713, August 18, 2009, 76 FR 45270, July 28, 2011, and 84 FR 22854, May 20, 2019) is amended to reflect reorganization of CDER, OPQ.

This reorganization changed the OPQ organizational structure from an office with nine suboffices to 10 suboffices. The former offices with divisions and branches had their branches abolished and the branch functions and resources

were realigned to their respective divisions.

The OPQ retitled four of its suboffices and retitled the majority of its divisions. The OPQ will establish the Office of Quality Assurance and within it established the Quality Assurance Staff, Learning and Professional Staff, and the Project Management Staff.

FDA, CDER, OPQ has been restructured as follows:

DCDL. ORGANIZATION. The Office of Pharmaceutical Quality is headed by the Director of Pharmaceutical Quality and includes the following organizational units:

Office of Pharmaceutical Quality (DCDL)
Office of Product Quality Assessment I (DCDLH)
Division of Product Quality Assessment I (DCDLHA)
Division of Product Quality Assessment II (DCDLHB)
Division of Product Quality Assessment III (DCDLHC)
Division of Product Quality Assessment IV (DCDLHD)
Division of Product Quality Assessment V (DCDLHE)
Division of Product Quality Assessment VI (DCDLHF)
Office of Product Quality Assessment II (DCDLB)
Division of Product Quality Assessment VII (DCDLBA)
Division of Product Quality Assessment VIII (DCDLBB)
Division of Product Quality Assessment IX (DCDLBC)
Division of Product Quality Assessment X (DCDLBD)
Division of Product Quality Assessment XI (DCDLBE)
Division of Product Quality Assessment XII (DCDLBF)
Office of Product Quality Assessment III (DCDLA)
Division of Product Quality Assessment XIII (DCDLAA)
Division of Product Quality Assessment XIV (DCDLAB)
Division of Product Quality Assessment XV (DCDLAC)
Division of Product Quality Assessment XVI (DCDLAD)
Division of Product Quality Assessment XVII (DCDLAE)
Division of Product Quality Assessment XVIII (DCDLAF)
Division of Product Quality Assessment XIX (DCDLAG)
Office of Pharmaceutical Manufacturing Assessment (DCDLD)
Division of Pharmaceutical Manufacturing Assessment I (DCDLDA)
Division of Pharmaceutical Manufacturing Assessment II (DCDLDB)
Division of Pharmaceutical Manufacturing Assessment III (DCDLDC)
Division of Pharmaceutical Manufacturing Assessment IV (DCDLDD)
Division of Pharmaceutical Manufacturing Assessment V (DCDLDE)
Division of Pharmaceutical Manufacturing Assessment VI (DCDLDF)
Office of Program and Regulatory Operations (DCDLG)
Division of Regulatory & Business Process Management I (DCDLGA)
Division of Regulatory & Business Process Management II (DCDLGB)
Division of Regulatory & Business Process Management III (DCDLGC)
Division of Regulatory & Business Process Management IV (DCDLGD)
Office of Pharmaceutical Quality Research (DCDLF)
Division of Pharmaceutical Quality Research I (DCDLFA)
Division of Pharmaceutical Quality Research II (DCDLFB)
Division of Pharmaceutical Quality Research III (DCDLFC)
Division of Pharmaceutical Quality Research IV (DCDLFD)
Division of Pharmaceutical Quality Research V (DCDLFE)
Division of Pharmaceutical Quality Research VI (DCDLFF)
Office of Policy for Pharmaceutical Quality (DCDLC)
Compendial Operations and Standards Staff (DCDLCA)
Division of Regulations and Guidance (DCDLCB)
Division of Internal Policy and Communication (DCDLCC)
Division of Editorial and Project Management (DCDLCD)
Office of Quality Assurance (DCDLJ)
Quality Assurance Staff (DCDLJ1)
Learning and Professional Development Staff (DCDLJ2)
Enterprise Project Management Staff (DCDLJ3)
Office of Quality Surveillance (DCDLE)
Division of Quality Intelligence I (DCDLEB)
Division of Quality Intelligence II (DCDLEC)
Division of Quality Intelligence III (DCDLED)
Office of Administrative Operations (DCDLI)
Administrative Analysis Staff (DCDLI1)
Administrative Operations Staff 1 (DCDLI2)
Administrative Operations Staff 2 (DCDLI3)
Administrative Operations Staff 3 (DCDLI4)
Administrative Operations Staff 4 (DCDLI5)
Financial Services Staff (DCDLI6)

II. Delegations of Authority

Pending further delegation, directives, or orders by the Commissioner of Food and Drugs, all delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

III. Electronic Access

This reorganization is reflected in FDA's Staff Manual Guide (SMG). Persons interested in seeing the complete SMG can find it on FDA's website at: *http://www.fda.gov/AboutFDA/ReportsManualsForms/StaffManualGuides/default.htm.*

(Authority: 44 U.S.C. 3101).

Xavier Becerra,

Secretary of Health and Human Services.

[FR Doc. 2024–01613 Filed 1–26–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request

Collection of Grants and Contracts Data the Historically Black Colleges and Universities (HBCUs) and Small Businesses May Be Interested in Pursuing (Office of the Director)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH), Office of the Director, Office of Acquisitions and Logistics Management (OALM), Small Business Program Office (SBPO), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Keondra Watts, Program Analyst, NIH, Office of the Director, Office of Acquisitions and Logistics Management, Small Business Program Office, 6701 Rockledge Dr., Bethesda, MD 20892–7786, or call non-toll-free number (301) 443–8722 or Email your request, including your address to: *Keondra.Watts@nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on October 27, 2023, pages 73864–73865 (88 FR 73864) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The National Institutes of Health (NIH), Office of the Director, Office of Acquisitions and Logistics Management, Small Business Program Office, may not conduct or sponsor, and the respondent is not required to respond to any information collection that has been extended, revised, or implemented on or after January 31, 2024, unless it displays a currently valid Office of Management and Budget (OMB) control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, NIH has submitted to OMB a request for review and approval of the information collection listed below.

Proposed Collection: Collection of Grants and Contracts data the Historically Black Colleges and Universities (HBCUs) and small businesses may be interested in pursuing, 0925–0767, exp., date, 01/31/2024, Office of the Director, Office of Acquisitions and Logistics Management, Small Business Program Office, National Institutes of Health.

Need and Use of Information Collection: Presidential Executive Order 13779 is the White House Initiative to Promote Excellence and Innovation (PEI) of HBCUs. This Executive Order mandates agencies to assist in strengthening HBCUs' ability for equitable participation in federal programs and explore new ways to improve the relationship between the federal government and HBCUs. This initiative will establish how each agency intends to increase the capacity of HBCUs to compete effectively for grants and contracts.

The PEI is a comprehensive plan to increase the capacity of HBCUs as they pursue funding opportunities at the NIH. The PEI provides a platform to increase transparency between HBCUs and the NIH by promoting outreach events and training opportunities and providing technical assistance. Currently, there are six HBCU participants and each selected a minimum of one small business teaming partner to pursue NIH funding opportunities with.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 883.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
HBCU Pre-Solicitation Portal for Contracts and Grants (Attachment Number 1).	Private Sector	62	18	45/60	837
Application for Small Business (Attachment Number 5).	Private Sector	43	1	45/60	32
Application for Universities (Attachment Number 4).	Private Sector	19	1	45/60	14
Total		62	1178		883

Dated: January 23, 2024.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2024–01698 Filed 1–26–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2024–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of June 6, 2024 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472,

(202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
San Luis Obispo County, California and Incorporated Areas Docket No.: FEMA–B–2255	
City of Arroyo Grande	City Hall, 300 East Branch Street, Arroyo Grande, CA 93420.
City of El Paso de Robles	City Hall, 1000 Spring Street, Paso Robles, CA 93446.
City of Grover Beach	City Hall, 154 South Eighth Street, Grover Beach, CA 93433.
City of Pismo Beach	City Hall, 760 Mattie Road, Pismo Beach, CA 93449.
City of San Luis Obispo	City Hall, 990 Palm Street, San Luis Obispo, CA 93401.
Unincorporated Areas of San Luis Obispo County	San Luis Obispo County Government Center, 1055 Monterey Street, Room D–430, San Luis Obispo, CA 93408.
Marquette County, Michigan (All Jurisdictions) Docket No.: FEMA–B–2227, FEMA–B–2323	
Charter Township of Chocolay	Chocolay Charter Township Hall, 5010 US Highway 41 South, Marquette, MI 49855.
Charter Township of Marquette	Charter Township Hall, 1000 Commerce Drive, Marquette, MI 49855.
City of Ishpeming	City Hall, 100 East Division Street, Ishpeming, MI 49849.
City of Marquette	City Hall, 300 West Baraga Avenue, Marquette, MI 49855.
City of Negaunee	City Hall, 319 West Case Street, Negaunee, MI 49866.
Township of Champion	Township Hall, 5317 US Highway 41 West, Champion, MI 49814.
Township of Ely	Ely Township Hall, 1555 County Road 496, Ishpeming, MI 49849.
Township of Ishpeming	Township Hall, 1575 US Highway 41 West, Ishpeming, MI 49849.
Township of Negaunee	Township Hall, 42 East State Highway M35, Negaunee, MI 49866.
Township of Powell	Powell Township Hall, 101 Bensinger Street, Big Bay, MI 49808.
Township of Sands	Sands Township Office Complex, 987 State Highway M–553, Gwinn, MI 49841.
Township of Skandia	Township Hall, 224 Kreiger Drive, Skandia, MI 49885.
Township of Tilden	Tilden Township Hall, 3145 County Road PG, Ishpeming, MI 49849.
Burleigh County, North Dakota and Incorporated Areas Docket No.: FEMA–B–2306	
City of Bismarck	City Hall, 221 North 5th Street, Bismarck, ND 58501.
City of Lincoln	City Hall, 74 Santee Road, Lincoln, ND 58504.
City of Wilton	City Hall, 121 Dakota Avenue, Wilton, ND 58579.
City of Wing	City Office, 211 Main Street, Wing, ND 58494.
Unincorporated Area of Burleigh County	Burleigh County Offices, 221 North 5th Street, Bismarck, ND 58501.
Miner County, South Dakota and Incorporated Areas Docket No.: FEMA–B–2306	
City of Carthage	Miner County Clerk of Courts, 401 North Main Street, Suite 100, Howard, SD 57349.
City of Howard	Miner County Clerk of Courts, 401 North Main Street, Suite 100, Howard, SD 57349.
Unincorporated Areas of Miner County	Miner County Clerk of Courts, 401 North Main Street, Suite 100, Howard, SD 57349.
Hawkins County, Tennessee and Incorporated Areas Docket No.: FEMA–B–2307	
City of Church Hill	City Hall, 300 East Main Boulevard, Church Hill, TN 37642.
Town of Mount Carmel	Building Inspector's Office, 100 Main Street East, Mount Carmel, TN 37645.

Community	Community map repository address
Unincorporated Areas of Hawkins County	Hawkins County Mayor's Office, Administration Building, 150 East Washington Street, Rogersville, TN 37857.
City of Falls Church, Virginia (Independent City) Docket No.: FEMA–B–2134 and FEMA–B–2266	
City of Falls Church	City Hall, The Harry E. Wells Municipal Building, 300 Park Avenue, Falls Church, VA 22046.

[FR Doc. 2024–01627 Filed 1–26–24; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2024–0002; Internal Agency Docket No. FEMA–B–2275]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency; Department of Homeland Security.

ACTION: Notice; correction.

SUMMARY: On October 12, 2022, FEMA published in the **Federal Register** a proposed flood hazard determination notice that contained an erroneous table. This notice provides corrections to that table to be used in lieu of the erroneous information. The table provided here represents the proposed flood hazard determinations and communities affected for Madison County, Mississippi and Incorporated Areas.

DATES: Comments are to be submitted on or before April 29, 2024.

ADDRESSES: The Preliminary Flood Insurance Rate Map (FIRM), and where applicable, the Flood Insurance Study (FIS) report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2275, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed in the table below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP may only be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The communities affected by the flood hazard determinations are provided in the table below. Any request for reconsideration of the revised flood hazard determinations shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations will also be considered before the FIRM and FIS report are made final.

Correction

In the proposed flood hazard determination notice published at 87 FR 61613 in the October 12, 2022, issue of the **Federal Register**, FEMA published a table titled ''Madison County, Mississippi and Incorporated Areas''. This table contained inaccurate information as to the communities affected by the proposed flood hazard determinations, featured in the table. In this document, FEMA is publishing a table containing the accurate information. The information provided below should be used in lieu of that previously published.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Madison County, Mississippi and Incorporated Areas Project: 13–04–8486S Preliminary Date: June 30, 2021	
City of Madison	City Hall, 1004 Madison Avenue, Madison, MS 39110.
Pearl River Valley Water Supply District	Pearl River Valley Water Supply District Building Department, 100 Reservoir Park Road, Brandon, MS 39047.

Community	Community map repository address
Unincorporated Areas of Madison County	Madison County Administrative Building, 125 West North Street, Canton, MS 39046.

[FR Doc. 2024–01624 Filed 1–26–24; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2024–0002; Internal Agency Docket No. FEMA–B–2403]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before April 29, 2024.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2403, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Hartford County, Connecticut (All Jurisdictions) **Project: 18–01–0024S Preliminary Date: June 29, 2023**	
City of Bristol	City Hall, 111 North Main Street, Bristol, CT 06010.
Town of Avon	Town Hall, 60 West Main Street, Avon, CT 06001.
Town of Bloomfield	Town Hall, 800 Bloomfield Avenue, Bloomfield, CT 06002.

Community	Community map repository address
Town of Burlington	Town Hall, 200 Spielman Highway, Burlington, CT 06013.
Town of Canton	Canton Town Hall, 4 Market Street, Collinsville, CT 06019.
Town of East Granby	Town Hall, 9 Center Street, East Granby, CT 06026.
Town of Farmington	Town Hall, 1 Monteith Drive, Farmington, CT 06032.
Town of Granby	Town Hall, 15 North Granby Road, Granby, CT 06035.
Town of Hartland	Hartland Town Hall, 22 South Road, East Hartland, CT 06027.
Town of Plainville	Municipal Center, 1 Central Square, Plainville, CT 06062.
Town of Simsbury	Town Hall, 933 Hopmeadow Street, Simsbury, CT 06070.
Town of Suffield	Town Hall, 83 Mountain Road, Suffield, CT 06078.
Town of West Hartford	Town Hall, 50 South Main Street, West Hartford, CT 06107.
Town of Windsor	Town Hall, 275 Broad Street, Windsor, CT 06095.
Town of Windsor Locks	Town Hall, 50 Church Street, Windsor Locks, CT 06096.
Tazewell County, Illinois and Incorporated Areas Project: 20–05–0001S Preliminary Date: August 31, 2023	
City of East Peoria	City Hall, 401 West Washington Street, East Peoria, IL 61611.
Unincorporated Areas of Tazewell County	Tazewell County McKenzie Building, 11 South 4th Street, Suite 400, Pekin, IL 61554.
Village of Creve Coeur	Village Hall, 103 North Thorncrest Avenue, Creve Coeur, IL 61610.
Hillsborough County, New Hampshire (All Jurisdictions) Project: 18–01–0025S Preliminary Date: May 18, 2023	
Town of Antrim	Planning Department, 66 Main Street, Antrim, NH 03440.
Town of Bennington	Town Hall, 7 School Street, Bennington, NH 03442.
Town of Deering	Town Hall, 762 Deering Center Road, Deering, NH 03244.
Town of Francestown	Town Hall, 27 Main Street, Francestown, NH 03043.
Town of Greenfield	Town Office, 7 Sawmill Road, Greenfield, NH 03047.
Town of Hancock	Town Hall, 50 Main Street, Hancock, NH 03449.
Town of Hillsborough	Planning Department, 27 School Street, Hillsborough, NH 03244.
Town of New Ipswich	Town Hall, 661 Turnpike Road, New Ipswich, NH 03071.
Town of Peterborough	Planning Department, 1 Grove Street, Peterborough, NH 03458.
Town of Sharon	Town Hall, 432 NH Route 123, Sharon, NH 03458.
Town of Temple	Town Hall, 423 Route 45, Temple, NH 03084.
Town of Weare	Town Hall, 15 Flanders Memorial Road, Weare, NH 03281.
Town of Windsor	Town Hall, 14 White Pond Road, Windsor, NH 03244.
Providence County, Rhode Island (All Jurisdictions) Project: 17–01–0182S Preliminary Dates: February 10, 2023 and August 01, 2023	
City of Central Falls	City Hall, 580 Broad Street, Central Falls, RI 02863.
City of Pawtucket	City Hall, 137 Roosevelt Avenue, Pawtucket, RI 02860.
City of Woonsocket	City Hall, 169 Main Street, Woonsocket, RI 02895.
Town of Burrillville	Burrillville Town Annex, 144 Harrisville Main Street, Harrisville, RI 02830.
Town of Cumberland	Department of Public Works, 45 Broad Street, Cumberland, RI 02864.
Town of Glocester	Glocester Town Hall, 1145 Putnam Pike, Chepachet, RI 02814.
Town of Lincoln	Town Hall, 100 Old River Road, Lincoln, RI 02865.
Town of North Smithfield	Town Hall, 83 Greene Street, North Smithfield, RI 02876.
Town of Scituate	Town Hall, 195 Danielson Pike, Scituate, RI 02857.
Town of Smithfield	Town Hall, 64 Farnum Pike, Smithfield, RI 02917.

[FR Doc. 2024–01625 Filed 1–26–24; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2024–0002; Internal Agency Docket No. FEMA–B–2404]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before April 29, 2024.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location

https://hazards.fema.gov/femaportal/prelimdownload and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2404, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Jefferson County, Missouri and Incorporated Areas Project: 21–07–0046S Preliminary Date: July 8, 2022 and July 28, 2023	
City of Arnold	City Hall, 2101 Jeffco Boulevard, Arnold, MO 63010.
City of Byrnes Mill	City Hall, 141 Osage Executive Circle, Byrnes Mill, MO 63051.
City of Crystal City	City Hall, 130 Mississippi Avenue, Crystal City, MO 63019.
City of De Soto	City Hall, 17 Boyd Street, De Soto, MO 63020.
City of Festus	City Hall, 711 West Main Street, Festus, MO 63028.
City of Herculaneum	City Hall, 1 Parkwood Court, Herculaneum, MO 63048.
City of Hillsboro	City Hall, 101 Main Street, Hillsboro, MO 63050.
City of Pevely	City Hall, 401 Main Street, Pevely, MO 63070.
Unincorporated Areas of Jefferson County	Jefferson County Annex, 725 Maple Street, Hillsboro, MO 63050.
Village of Scotsdale	Jefferson County Annex, 725 Maple Street, Hillsboro, MO 63050.

[FR Doc. 2024–01626 Filed 1–26–24; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[Docket No. ICEB–2023–0017]

RIN 1653–ZA45

Employment Authorization for Syrian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Current Armed Conflict and Current Humanitarian Crisis in Syria

AGENCY: U.S. Immigration and Customs Enforcement; Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security (Secretary) is suspending certain regulatory requirements for F–1 nonimmigrant students whose country of citizenship is Syria, regardless of country of birth (or individuals having no nationality who last habitually resided in Syria), and who are experiencing severe economic hardship as a direct result of the current armed conflict and current humanitarian crisis in Syria. The Secretary is taking action to provide relief to these Syrian students who are in lawful F–1 nonimmigrant student status, so the students may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F–1 nonimmigrant student status. The U.S. Department of Homeland Security (DHS) will deem an F–1 nonimmigrant student granted employment authorization by means of this notice to be engaged in a ''full course of study'' for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.

DATES: This action is effective April 1, 2024, through September 30, 2025.

FOR FURTHER INFORMATION CONTACT: Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536–5600; email: *sevp@ice.dhs.gov,* telephone: (703) 603–3400. This is not a toll-free number. Program information can be found at *https://www.ice.gov/sevis/.*

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary is exercising authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F–1 nonimmigrant students whose country of citizenship is Syria regardless of country of birth (or individuals having no nationality who last habitually resided in Syria), who are present in the United States in lawful F–1 nonimmigrant student status on the date of publication of this notice, and who are experiencing severe economic hardship as a direct result of the current armed conflict and current humanitarian crisis in Syria. The original notice, which applied to F–1 nonimmigrant students who met certain criteria, including having been lawfully present in the United States in F–1 nonimmigrant status on April 3, 2012, was effective from April 3, 2012, through October 3, 2013. *See* 77 FR 20038 (Apr. 3, 2012). A subsequent notice provided for an extension, effective from October 3, 2013, through March 31, 2015. *See* 78 FR 36211 (June 17, 2013). A third notice provided another extension, effective from March 31, 2015, through September 30, 2016. *See* 80 FR 232 (Jan. 5, 2015). A fourth notice provided another extension, effective from September 30, 2016, through March 31, 2018, and expanded the applicability of such suspension to Syrian F–1 nonimmigrant students who were in lawful F–1 nonimmigrant student status between April 3, 2012, and September 9, 2016. *See* 81 FR 62520 (Sept. 9, 2016). A fifth notice provided another extension, effective from March 31, 2018, through September 30, 2019. *See* 83 FR 11553 (Mar. 15, 2018). A sixth notice was provided, effective from April 22, 2021, through September 30, 2022. *See* 86 FR 21333 (Apr. 22, 2021). A seventh notice was provided, effective from October 1, 2022, through April 1, 2024. *See* 87 FR 46975 (Aug. 1, 2022). Effective with this publication, suspension of the employment limitations is available through September 30, 2025, for those who are in lawful F–1 nonimmigrant status on the date of publication of this notice. DHS will deem an F–1 nonimmigrant student granted employment authorization through this notice to be engaged in a ''full course of study'' for the duration of the employment authorization, if the student satisfies the minimum course load set forth in this notice.[1] *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered by this notice?

This notice applies exclusively to F–1 nonimmigrant students who meet all of the following conditions:

(1) Are a citizen of Syria regardless of country of birth (or an individual having no nationality who last habitually resided in Syria);

(2) Were lawfully present in the United States on the date of publication of this notice in F–1 nonimmigrant status under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i);

(3) Are enrolled in an academic institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment for F–1 nonimmigrant students;

(4) Are currently maintaining F–1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the current armed conflict and current humanitarian crisis in Syria.

This notice applies to F–1 nonimmigrant students in an approved private school in kindergarten through grade 12, public school grades 9 through 12, and undergraduate and graduate education. An F–1 nonimmigrant student covered by this notice who transfers to another SEVP-certified academic institution remains eligible for the relief provided by means of this notice.

Why is DHS taking this action?

DHS is taking action to provide relief to Syrian F–1 nonimmigrant students experiencing severe economic hardship due to the current armed conflict and current humanitarian crisis in Syria. Based on its review of country conditions in Syria and input received from the U.S. Department of State (DOS), DHS is taking action to allow eligible F–1 nonimmigrant students from Syria to request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain F–1 nonimmigrant student status.

Increased violent conflict poses substantial risk to Syrians throughout

[1] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of September 30, 2025, provided the student satisfies the minimum course load requirements in this notice.

the country. The Syrian people remain subjected to conflict with no end in sight. Roughly 550,000 people have been killed as a result of the violence since the start of the Syrian conflict in 2011.[2] From January to December of 2022, 1,057 civilians, including 251 children and at least 158 women, died due to continued conflict.[3] Syria is the third least peaceful country according to the 2023 Global Peace Index.[4] Concerns for health and safety have led to massive civilian displacement within Syria as well as large-scale migration to neighboring countries and Europe, creating the largest influx of refugees into Europe since World War II.[5] Continued economic concerns, internal conflict, and humanitarian concerns have created a severe, and worsening, humanitarian crisis that includes large scale population displacement.[6]

Economic Concerns

The Syrian economy has been devastated by years of conflict, the February 6, 2023 earthquake, the financial crisis in Lebanon, and government corruption.[7] The devaluation of the currency has put the value of the Syrian pound at an all-time low.[8] The effects of the currency devaluation has greatly impacted ordinary citizens' access to basic needs such as food, fuel and medication.[9] The outlook for the future of the Syrian economy has been grim, even before the Kahramanmaraş earthquake on February 6, 2023. Additionally, the World Bank predicted that Syria's real GDP would contract by 5.5 percent in 2023,[10] based on rising costs of food and fuel, combined with myriad uncertainties including domestic conflict, damaged healthcare infrastructure, and a declining agricultural sector.[11]

Internal Conflict

Security conditions remain dire for civilians in Syria and ''[i]n 2022, Syria remain[ed] the third least peaceful country in the world according to the Global Peace Index (GPI). Ongoing hostilities, including artillery shelling, air strikes and land mines, continue to threaten the lives of civilians and hamper humanitarian activities.''

Northwest Syria continues to see an uptick in conflict with recent ongoing regime and Russian airstrikes and retaliatory attacks. Civilians and civilian infrastructure are commonly the subjects of artillery shelling, especially in Idlib governorate. Additionally, civilians in the northwest Syria continue to face harm, especially those who run afoul of armed groups like U.S.-designated terrorist organization Hay'at Tahrir al-Sham (HTS) in Idlib.

Continued conflict persists in government-controlled regions of Syria, with the Syrian Arab Air Force conducting frequent airstrikes. Central Syria also suffers from a power vacuum despite being nominally under government control. ISIS has exploited the minimal government presence in the area, conducting multiple attacks against civilians in the spring of 2023, including a massacre of 53 people on February 17, 2023.[12]

Humanitarian Concerns

As the civil conflict in Syria continues into its 13th year, the number of people in Syria in need of humanitarian assistance has increased from 14.6 to 15.3 million since 2022.[13] [14]

Additionally, northern Syria was subject to a deadly earthquake in February 2023, in which 8,476 people lost their lives.[15] The United Nations High Commissioner for Refugees (UNHCR) reports 5,183,140 Syrian refugees in neighboring countries,[16] and 6.8 million people internally displaced (IDPs) within Syria.[17] The conflict has resulted in high levels of food insecurity, limited access to water and medical care, and large-scale destruction of Syria's infrastructure, which was only exacerbated by the earthquake in February 2023.[18] Additionally, credible reports of indiscriminate killing and deliberate targeting of civilians, as well as forced conscription and use of child soldiers has intensified the humanitarian crisis in Syria since the start of 2022.[19]

As of December 8, 2023, approximately 349 F–1 nonimmigrant students from Syria are enrolled at SEVP-certified academic institutions in the United States. Given the extent of the current armed conflict and current humanitarian crisis in Syria, affected students whose primary means of financial support comes from Syria may need to be exempt from the normal student employment requirements to

[2] 2022 Country Reports on Human Rights Practices: Syria, U.S. Dept. of State, 2022, available at *https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/syria/* (last visited Dec. 7, 2023).

[3] *Id.*

[4] Global Peace Index 2023, The Institute for Economics and Peace, June 2023, available at *https://www.economicsandpeace.org/wp-content/uploads/2023/06/GPI-2023-Web.pdf* (last visited Oct. 10, 2023).

[5] A visual guide to 75 years of major refugee crises around the world, The Washington Post, Dec. 21, 2015, available at *https://www.washingtonpost.com/graphics/world/historical-migrant-crisis/* (last visited Sept. 27, 2023).

[6] 2023 Humanitarian Needs Overview: Syrian Arab Republic, UNOCHA, Dec. 2022, available at *https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/hno_2023-rev-1.12_1.pdf* (last visited Oct. 10, 2023).

[7] Syria Economic Monitor Winter 2022/2023, The World Bank, March 17, 2023, available at *https://www.worldbank.org/en/country/syria/publication/syria-economic-monitor-winter-2022-2023#:~:text=Subject%20to%20high%20uncertainty%2C%20real,3.5%20percent%20decline%20in%20202* (last visited Sept. 27, 2023).

[8] Danny Makki, Syria's economic freefall continues despite Arab League return, The Middle East Institute, Aug. 16, 2023, available at *https://www.mei.edu/publications/syrias-economic-freefall-continues-despite-arab-league-return* (last visited Sept. 27, 2023).

[9] *Id.*

[10] Earthquake undermines Syria's Economic Outlook, Compounding Dire Socio-Economic Conditions, and Internal Displacement, The World Bank, March 17, 2023 Syria Economic Monitor Winter 2022/2023, The World Bank, March 17, 2023, available at *https://www.worldbank.org/en/news/press-release/2023/03/17/earthquake-undermines-syria-s-economic-outlook-compounding-dire-socio-economic-conditions-and-internal-displacement* (last visited Sept. 27, 2023).

[11] Syria Economic Monitor Winter 2022/2023, The World Bank, March 17, 2023 available at *https://www.worldbank.org/en/country/syria/publication/syria-economic-monitor-winter-2022-2023#:~:text=Subject%20to%20high%20uncertainty%2C%20real,3.5%20percent%20decline%20in%20202* (last visited Sept. 27, 2023).

[12] Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, United Nations General Assembly Human Rights Council, Aug. 14, 2023, available at *https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/155/49/PDF/G2315549.pdf?OpenElement* (last visited Sept. 27, 2023).

[13] 2022 Humanitarian Needs Overview: Syrian Arab Republic, UNOCHA, Feb. 22, 2022, available at *https://reliefweb.int/report/syrian-arab-republic/2022-humanitarian-needs-overview-syrian-arab-republic-february-2022* (last visited Sept. 27, 2023).

[14] Syria—Complex Emergency Fact Sheet #8, Fiscal Year 2023, USAID, Aug. 16, 2023, available at *https://reliefweb.int/report/syrian-arab-republic/syria-complex-emergency-fact-sheet-8-fiscal-year-fy-2023* (last visited Sept. 27, 2023).

[15] Devastating Earthquakes in Southern Türkiye and Northern Syria, Situation Report 20, International Blue Crescent Relief and Development Foundation, May 19, 2023, available at *https://reliefweb.int/report/turkiye/devastating-earthquakes-southern-turkiye-and-northern-syria-18-may-2023-situation-report-23-entr.*

[16] Situation Syria Regional Refugee Response, UNHCR, available at *https://data2.unhcr.org/en/situations/syria,* Oct. 5, 2023, (last visited Sept. 27, 2023).

[17] Syria—Complex Emergency Fact Sheet #8, Fiscal Year 2023, Aug. 16, 2023, available at *https://reliefweb.int/report/syrian-arab-republic/syria-complex-emergency-fact-sheet-8-fiscal-year-fy-2023* (last visited Sept. 27, 2023).

[18] Syria Earthquake 2023 Rapid Damage and Needs Assessment (RDNA), The World Bank, March 1, 2023, available at *https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099093003162314369/p1721710e2b4a60b40a5940f0793f8a0d24* (last visited Sept. 27, 2023).

[19] 2023 Humanitarian Needs Overview: Syrian Arab Republic, UNOCHA, Dec. 2022, available at *https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/hno_2023-rev-1.12_1.pdf* (humanitarianresponse.info) (last visited Oct. 10, 2023).

continue their studies in the United States. The current armed conflict and current humanitarian crisis has made it unfeasible for many students to safely return to Syria for the foreseeable future. Without employment authorization, these students may lack the means to meet basic living expenses.

What is the minimum course load requirement to maintain valid F–1 nonimmigrant status under this notice?

Undergraduate F–1 nonimmigrant students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester or quarter hours of instruction per academic term. Undergraduate F–1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a ''full course of study.'' *See* 8 CFR 214.2(f)(6)(i)(B) and (F). A graduate-level F–1 nonimmigrant student who receives on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v). Nothing in this notice affects the applicability of other minimum course load requirements set by the academic institution.

In addition, an F–1 nonimmigrant student (either undergraduate or graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education toward satisfying this minimum course load requirement, unless their course of study is in an English language study program. *See* 8 CFR 214.2(f)(6)(i)(G). An F–1 nonimmigrant student attending an approved private school in kindergarten through grade 12 or public school in grades 9 through 12 must maintain ''class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation,'' as required under 8 CFR 214.2(f)(6)(i)(E). Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

May an eligible F–1 nonimmigrant student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?

Yes. An F–1 nonimmigrant student who is a Syrian citizen, regardless of country of birth (or an individual having no nationality who last habitually resided in Syria), who already has on-campus or off-campus employment authorization and is otherwise eligible may benefit under this notice, which suspends certain regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i) and certain employment eligibility requirements under 8 CFR 214.2(f)(9). Such an eligible F–1 nonimmigrant student may benefit without having to apply for a new Form I–766, Employment Authorization Document (EAD). To benefit from this notice, the F–1 nonimmigrant student must request that their designated school official (DSO) enter the following statement in the remarks field of the student's Student and Exchange Visitor Information System (SEVIS) record, which the student's Form I–20, Certificate of Eligibility for Nonimmigrant (F–1) Student Status, will reflect:

> Approved for more than 20 hours per week of [DSO must insert ''on-campus'' or ''off-campus,'' depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of the notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert either the student's program end date, the current EAD expiration date (if the student is currently authorized for off-campus employment), or the end date of this notice, whichever date comes first].[20]

Must the F–1 nonimmigrant student apply for reinstatement after expiration of this special employment authorization if the student reduces his or her ''full course of study'' ?

No. DHS will deem an F–1 nonimmigrant student who receives and comports with the employment authorization permitted under this notice to be engaged in a ''full course of study'' [21] for the duration of the student's employment authorization, provided that a qualifying undergraduate level F–1 nonimmigrant student remains registered for a minimum of six semester or quarter hours of instruction per academic term, and a qualifying graduate level F–1 nonimmigrant student remains registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). Undergraduate F–1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a ''full course of study.'' *See* 8 CFR 214.2(f)(6)(i)(B) and (F). DHS will not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F–1 nonimmigrant status.

Will an F–2 dependent (spouse or minor child) of an F–1 nonimmigrant student covered by this notice be eligible for employment authorization?

No. An F–2 spouse or minor child of an F–1 nonimmigrant student is not authorized to work in the United States and, therefore, may not accept employment under the F–2 nonimmigrant status, consistent with 8 CFR 214.2(f)(15)(i).

Will the suspension of the applicability of the standard student employment requirements apply to an individual who receives an initial F–1 visa and makes an initial entry into the United States after the effective date of this notice in the Federal Register?

No. The suspension of the applicability of the standard regulatory requirements only applies to certain F–1 nonimmigrant students who meet the following conditions:

(1) Are a citizen of Syria regardless of country of birth (or an individual having no nationality who last habitually resided in Syria);

(2) Were lawfully present in the United States on the date of publication of this notice in F–1 nonimmigrant status, under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i);

(3) Are enrolled in an academic institution that is SEVP-certified for enrollment of F–1 nonimmigrant students;

(4) Are maintaining F–1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the current armed conflict and current humanitarian crisis in Syria.

An F–1 nonimmigrant student who does not meet all these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements (even if experiencing severe economic hardship as a direct result of the current armed conflict and current humanitarian crisis in Syria).

[20] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of Sept. 30, 2025, provided the student satisfies the minimum course load requirements in this notice.

[21] *See* 8 CFR 214.2(f)(6).

Does this notice apply to a continuing F–1 nonimmigrant student who departs the United States after the effective date of this notice in the Federal Register and who needs to obtain a new F–1 visa before returning to the United States to continue an educational program?

Yes. This notice applies to such an F–1 nonimmigrant student, but only if the DSO has properly notated the student's SEVIS record, which will then appear on the student's Form I–20. The normal rules for visa issuance remain applicable to a nonimmigrant who needs to apply for a new F–1 visa to continue an educational program in the United States.

Does this notice apply to elementary school, middle school, and high school students in F–1 status?

Yes. However, this notice does not by itself reduce the required course load for F–1 nonimmigrant students from Syria enrolled in kindergarten through grade 12 at a private school, or grades 9 through 12 at a public high school. Such students must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for normal progress toward graduation, as required under 8CFR214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F–1 nonimmigrant students regardless of educational level. Eligible F–1 nonimmigrant students from Syria enrolled in an elementary school, middle school, or high school may benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session.

On-Campus Employment Authorization

Will an F–1 nonimmigrant student who receives on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?

Yes. For an F–1 nonimmigrant student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F–1 nonimmigrant student's on-campus employment to 20 hours per week while school is in session. An eligible F–1 nonimmigrant student has authorization to work more than 20 hours per week while school is in session if the DSO has entered the following statement in the remarks field of the student's SEVIS record, which will be reflected on the student's Form I–20:

Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of this notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert the student's program end date or the end date of this notice, whichever date comes first].[22]

To obtain on-campus employment authorization, the F–1 nonimmigrant student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship directly resulting from the current armed conflict and current humanitarian crisis in Syria. An F–1 nonimmigrant student authorized by the DSO to engage in on-campus employment by means of this notice does not need to file any applications with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting full-time on-campus employment when school is not in session or during school vacations apply, as described in 8 CFR 214.2(f)(9)(i).

Will an F–1 nonimmigrant student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain his or her F–1 nonimmigrant student status?

Yes. DHS will deem an F–1 nonimmigrant student who receives on-campus employment authorization under this notice to be engaged in a ''full course of study'' [23] for the purpose of maintaining their F–1 nonimmigrant student status for the duration of the on-campus employment, if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F–1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F–1 nonimmigrant student to take a reduced course load if the reduction would not meet the academic institution's minimum course load requirement for continued enrollment.[24]

[22] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of Sept. 30, 2025, provided the student satisfies the minimum course load requirements in this notice.

[23] See 8 CFR 214.2(f)(6).

[24] Minimum course load requirement for enrollment in a school must be established in a publicly available document (*e.g.,* catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

Off-Campus Employment Authorization

What regulatory requirements does this notice temporarily suspend relating to off-campus employment?

For an F–1 nonimmigrant student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

(a) The requirement that a student must have been in F–1 nonimmigrant student status for one full academic year to be eligible for off-campus employment;

(b) The requirement that an F–1 nonimmigrant student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study;

(c) The requirement that limits an F–1 nonimmigrant student's employment authorization to no more than 20 hours per week of off-campus employment while the school is in session; and

(d) The requirement that the student demonstrate that employment under 8 CFR 214.2(f)(9)(i) is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

Will an F–1 nonimmigrant student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F–1 nonimmigrant status?

Yes. DHS will deem an F–1 nonimmigrant student who receives off-campus employment authorization by means of this notice to be engaged in a ''full course of study'' [25] for the purpose of maintaining F–1 nonimmigrant student status for the duration of the student's employment authorization if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F). The authorization for a reduced course load is solely for DHS purposes of determining valid F–1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F–1 nonimmigrant student to take a reduced course load if such reduced course load would not meet the school's minimum course load requirement.[26]

[25] *See* 8 CFR 214.2(f)(6).

[26] Minimum course load requirement for enrollment in a school must be established in a publicly available document (*e.g.,* catalog, website, or operating procedure), and it must be a standard

How may an eligible F–1 nonimmigrant student obtain employment authorization for off-campus employment with a reduced course load under this notice?

An F–1 nonimmigrant student must file a Form I–765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship directly resulting from the current armed conflict and current humanitarian crisis in Syria.[27] Filing instructions are located at *https://www.uscis.gov/i-765.*

Fee considerations. Submission of a Form I–765 currently requires payment of a $410 fee. An applicant who is unable to pay the fee may submit a completed Form I–912, Request for Fee Waiver, along with the Form I–765, Application for Employment Authorization. *See https://www.uscis.gov/forms/filing-fees/additional-information-on-filing-a-fee-waiver.* The submission must include an explanation about why USCIS should grant the fee waiver and the reason(s) for the inability to pay, and any evidence to support the reason(s). *See* 8 CFR 103.7(c) (Oct. 1, 2020).

Supporting documentation. An F–1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to their DSO:

(1) This employment is necessary to avoid severe economic hardship; and

(2) The hardship is a direct result of the current armed conflict and current humanitarian crisis in Syria.

If the DSO agrees that the F–1 nonimmigrant student is entitled to receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on that student's Form I–20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I–766 until [DSO must insert the program end date or the end date of this notice, whichever date comes first].[28]

The F–1 nonimmigrant student must then file the properly endorsed Form I–20 and Form I–765 according to the instructions for the Form I–765. The F–1 nonimmigrant student may begin working off campus only upon receipt of the EAD from USCIS.

DSO recommendation. In making a recommendation that an F–1 nonimmigrant student be approved for Special Student Relief, the DSO certifies that:

(a) The F–1 nonimmigrant student is in good academic standing and is carrying a ''full course of study'' [29] at the time of the request for employment authorization;

(b) The F–1 nonimmigrant student is a citizen of Syria, regardless of country of birth (or an individual having no nationality who last habitually resided in Syria), and is experiencing severe economic hardship as a direct result of the current armed conflict and current humanitarian crisis in Syria, as documented on the Form I–20;

(c) The F–1 nonimmigrant student has confirmed that the student will comply with the reduced course load requirements of this notice and register for the duration of the authorized employment for a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level; [30] and

(d) The off-campus employment is necessary to alleviate severe economic hardship to the individual as a direct result of the current armed conflict and current humanitarian crisis in Syria.

Processing. To facilitate prompt adjudication of the student's application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the F–1 nonimmigrant student should do both of the following:

(a) Ensure that the application package includes the following documents:

(1) A completed Form I–765 with all applicable supporting evidence;

(2) The required fee or properly documented fee waiver request as defined in 8 CFR 103.7(c) (Oct. 1, 2020); and

(3) A signed and dated copy of the student's Form I–20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) Send the application in an envelope which is clearly marked on the front of the envelope, bottom right-hand side, with the phrase ''SPECIAL STUDENT RELIEF.'' [31] Failure to include this notation may result in significant processing delays.

If USCIS approves the student's Form I–765, USCIS will send the student a Form I–766 EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

Temporary Protected Status (TPS) Considerations

Can an F–1 nonimmigrant student apply for TPS and for benefits under this notice at the same time?

Yes. An F–1 nonimmigrant student who has not yet applied for TPS or for other relief that reduces the student's course load per term and permits an increased number of work hours per week, such as Special Student Relief,[32] under this notice has two options.

Under the first option, the F–1 nonimmigrant student may apply for TPS according to the instructions in the USCIS notice designating Syria for TPS elsewhere in this issue of the **Federal Register**. All TPS applicants must file a Form I–821, Application for Temporary Protected Status, with the appropriate fee (or request a fee waiver). Although not required to do so, if F–1 nonimmigrant students want to obtain a new TPS-related EAD that is valid through September 30, 2025, and to be eligible for automatic EAD extensions that may be available to certain EADs with an A–12 or C–19 category code, they must file Form I–765 and pay the Form I–765 fee (or request a fee waiver). After receiving the TPS-related EAD, an F–1 nonimmigrant student may request that their DSO make the required entry in SEVIS and issue an updated Form I–20, which notates that the nonimmigrant student has been authorized to carry a reduced course load, as described in this notice. As long as the F–1 nonimmigrant student maintains the minimum course load described in this notice, does not otherwise violate their nonimmigrant status, including as provided under 8 CFR 214.1(g), and maintains TPS, then the student maintains F–1 status and TPS concurrently.

Under the second option, the F–1 nonimmigrant student may apply for an EAD under Special Student Relief by filing Form I–765 with the location

applicable to all students (U.S. citizens and foreign students) enrolled at the school.

[27] *See* 8 CFR 274a.12(c)(3)(iii).

[28] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of Sept. 30, 2025, provided the student satisfies the minimum course load requirements in this notice.

[29] *See* 8 CFR 214.2(f)(6).

[30] 8 CFR 214.2(f)(5)(v).

[31] Guidance for direct filing addresses can be found here: *https://www.uscis.gov/i-765-addresses.*

[32] *See* DHS Study in the States, Special Student Relief, *https://studyinthestates.dhs.gov/students/special-student-relief* (last visited Oct. 10, 2023).

specified in the filing instructions. At the same time, the F–1 nonimmigrant student may file a separate TPS application but must submit the Form I–821 according to the instructions provided in the **Federal Register** notice designating Syria for TPS. If the F–1 nonimmigrant student has already applied for employment authorization under Special Student Relief, they are not required to submit the Form I–765 as part of the TPS application. However, some nonimmigrant students may wish to obtain a TPS-related EAD in light of certain extensions that may be available to EADs with an A–12 or C–19 category code that are not available to the C–3 category under which Special Student Relief falls. The F–1 nonimmigrant student should check the appropriate box when filling out Form I–821 to indicate whether a TPS-related EAD is being requested. Again, as long as the F–1 nonimmigrant student maintains the minimum course load described in this notice and does not otherwise violate the student's nonimmigrant status, included as provided under 8 CFR 214.1(g), the nonimmigrant will be able to maintain compliance requirements for F–1 nonimmigrant student status while having TPS.

When a student applies simultaneously for TPS and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?

The F–1 nonimmigrant student must maintain normal course load requirements for a ''full course of study'' [33] unless or until the nonimmigrant student receives employment authorization under this notice. TPS-related employment authorization, by itself, does not authorize a nonimmigrant student to drop below twelve credit hours, or otherwise applicable minimum requirements (*e.g.,* clock hours for non-traditional academic programs). Once approved for a TPS-related EAD and Special Student Relief employment authorization, as indicated by the DSO's required entry in SEVIS and issuance of an updated Form I–20, the F–1 nonimmigrant student may drop below twelve credit hours, or otherwise applicable minimum requirements (with a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if at the graduate level). *See* 8 CFR 214.2(f)(5)(v), (f)(6), and (f)(9)(i) and (ii).

[33] *See* 8 CFR 214.2(f)(6).

How does a student who has received a TPS-related EAD then apply for authorization to take a reduced course load under this notice?

There is no further application process with USCIS if a student has been approved for a TPS-related EAD. The F–1 nonimmigrant student must demonstrate and provide documentation to the DSO of the direct economic hardship resulting from the current armed conflict and current humanitarian crisis in Syria. The DSO will then verify and update the student's record in SEVIS to enable the F–1 nonimmigrant student with TPS to reduce the course load without any further action or application. No other EAD needs to be issued for the F–1 nonimmigrant student to have employment authorization.

Can a noncitizen who has been granted TPS apply for reinstatement of F–1 nonimmigrant student status after the noncitizen's F–1 nonimmigrant student status has lapsed?

Yes. Regulations permit certain students who fall out of F–1 nonimmigrant student status to apply for reinstatement. *See* 8 CFR 214.2(f)(16). This provision may apply to students who worked on a TPS-related EAD or dropped their course load before publication of this notice, and therefore fell out of student status. These students must satisfy the criteria set forth in the F–1 nonimmigrant student status reinstatement regulations.

How long will this notice remain in effect?

This notice grants temporary relief until September 30, 2025,[34] to eligible F–1 nonimmigrant students. DHS will continue to monitor the situation in Syria. Should the special provisions authorized by this notice need modification or extension, DHS will announce such changes in the **Federal Register**.

Paperwork Reduction Act (PRA)

An F–1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship resulting from the current armed conflict and current humanitarian crisis in Syria must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that a nonimmigrant student should receive such employment authorization must recommend an application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653–0038.

This notice also allows an eligible F–1 nonimmigrant student to request employment authorization, work an increased number of hours while the academic institution is in session, and reduce their course load while continuing to maintain F–1 nonimmigrant student status.

To apply for employment authorization, certain F–1 nonimmigrant students must complete and submit a currently approved Form I–765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I–765, consistent with the PRA (OMB Control Number 1615–0040). Although there will be a slight increase in the number of Form I–765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I–765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

Alejandro Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2024–01762 Filed 1–26–24; 8:45 am]

BILLING CODE 9111–28–P

[34] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of Sept. 30, 2025, provided the student satisfies the minimum course load requirements in this notice.

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2763–24; DHS Docket No. USCIS–2013–0001]

RIN 1615–ZB72

Extension and Redesignation of Syria for Temporary Protected Status

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

ACTION: Notice of Temporary Protected Status (TPS) extension and redesignation.

SUMMARY: Through this notice, the Department of Homeland Security

(DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of Syria for Temporary Protected Status (TPS) for 18 months, beginning on April 1, 2024, and ending on September 30, 2025. This extension allows existing TPS beneficiaries to retain TPS through September 30, 2025, if they otherwise continue to meet the eligibility requirements for TPS. Existing TPS beneficiaries who wish to extend their status through September 30, 2025, must re-register during the 60-day re-registration period described in this notice. The Secretary is also redesignating Syria for TPS. The redesignation of Syria allows additional Syrian nationals (and individuals having no nationality who last habitually resided in Syria) who have been continuously residing in the United States since January 25, 2024, to apply for TPS for the first time during the initial registration period described under the redesignation information in this notice. In addition to demonstrating continuous residence in the United States since January 25, 2024, and meeting other eligibility criteria, initial applicants for TPS under this designation must demonstrate that they have been continuously physically present in the United States since April 1, 2024, the effective date of this redesignation of Syria for TPS.

DATES: Extension and Redesignation of the Designation of Syria for TPS begins on April 1, 2024, and will remain in effect for 18 months. For registration instructions, see the Registration Information section below.

FOR FURTHER INFORMATION CONTACT:

- You may contact Renáa Cutlip-Mason, Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 240–721–3000.
- For more information on TPS, including guidance on the registration process and additional information on eligibility, please visit the USCIS TPS web page at *https://www.uscis.gov/tps.* You can find specific information about Syria's TPS designation by selecting ''Syria'' from the menu on the left side of the TPS web page.
- If you have additional questions about TPS, please visit *uscis.gov/tools.* Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you cannot find your answers there, you may also call our USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).
- Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at *uscis.gov*, or visit the USCIS Contact Center at *https://www.uscis.gov/contactcenter.*
- You can also find more information at local USCIS offices after this notice is published.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
CFR—Code of Federal Regulations
DHS—U.S. Department of Homeland Security
DOS—U.S. Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
Form I–131—Application for Travel Document
Form I–765—Application for Employment Authorization
Form I–797—Notice of Action
Form I–821—Application for Temporary Protected Status
Form I–9—Employment Eligibility Verification
Form I–912—Request for Fee Waiver
Form I–94—Arrival/Departure Record
FR—Federal Register
Government—U.S. Government
IER—U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section
IJ—Immigration Judge
INA—Immigration and Nationality Act
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
U.S.C.—United States Code

Registration Information

Extension of Designation of Syria for TPS: The 18-month designation of Syria for TPS begins on April 1, 2024, and will remain in effect for 18 months, ending on September 30, 2025. The extension impacts existing beneficiaries of TPS.

Re-registration: The 60-day re-registration period for existing beneficiaries runs from January 29, 2024 through March 29, 2024. (*Note:* It is important for re-registrants to timely re-register during the re-registration period and not to wait until their Employment Authorization Documents (EADs) expire, as delaying reregistration could result in gaps in their employment authorization documentation.)

Redesignation of Syria for TPS: The 18-month redesignation of Syria for TPS begins on April 1, 2024, and will remain in effect for 18 months, ending on September 30, 2025. The redesignation impacts potential first-time applicants and others who do not currently have TPS.

First-time Registration: The initial registration period for new applicants under the Syria TPS redesignation begins on January 29, 2024 and will remain in effect through September 30, 2025.

Purpose of This Action (TPS)

Through this notice, DHS sets forth procedures necessary for nationals of Syria (or individuals having no nationality who last habitually resided in Syria) to (1) re-register for TPS and apply to renew their EAD with USCIS or (2) submit an initial registration application under the redesignation and apply for an EAD.

Re-registration is limited to individuals who have previously registered for TPS under the prior designation of Syria and whose applications have been granted. If you do not re-register properly within the 60-day re-registration period, USCIS may withdraw your TPS following appropriate procedures. *See* 8 CFR 244.14.

For individuals who have already been granted TPS under Syria's designation, the 60-day re-registration period runs January 29, 2024, through March 29, 2024. USCIS will issue new EADs with a September 30, 2025, expiration date to eligible Syrian TPS beneficiaries who timely re-register and apply for EADs. Given the time frames involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants may receive a new EAD before their current EAD expires. Accordingly, through this **Federal Register** notice, DHS automatically extends through March 31, 2025, the validity of certain EADs previously issued under the TPS designation of Syria. As proof of continued employment authorization through March 31, 2025, TPS beneficiaries can show their EAD with the notation A–12 or C–19 under Category and a Card Expires date of March 31, 2024, September 30, 2022, or March 31, 2021. This notice explains how TPS beneficiaries and their employers may determine if an EAD is automatically extended and how this affects the Form I–9, Employment Eligibility Verification, E-Verify, and USCIS Systematic Alien Verification for Entitlements (SAVE) processes.

Individuals who have a Syria TPS application (Form I–821) or Application for Employment Authorization (Form I–765) that was still pending as of January 29, 2024, do not need to file either application again. If USCIS approves an

individual's pending Form I–821, USCIS will grant the individual TPS through September 30, 2025. Similarly, if USCIS approves a pending TPS-related Form I–765, USCIS will issue the individual a new EAD that will be valid through the same date.

Under the redesignation, individuals who currently do not have TPS may submit an initial application during the initial registration period that runs from January 29, 2024 through the full length of the redesignation period ending September 30, 2025. In addition to demonstrating continuous residence in the United States since January 25, 2024, and meeting other eligibility criteria, initial applicants for TPS under this redesignation must demonstrate that they have been continuously physically present in the United States since April 1, 2024,[1] the effective date of this redesignation of Syria, before USCIS may grant them TPS. DHS estimates that approximately 2,500 individuals may become newly eligible for TPS under the redesignation of Syria.

What Is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a foreign state designated for TPS under the INA, or to eligible individuals without nationality who last habitually resided in the designated foreign state, regardless of their country of birth.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to obtain EADs if they continue to meet the requirements of TPS.
- TPS beneficiaries may also apply for and be granted travel authorization as a matter of DHS discretion.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).
- When the Secretary terminates a foreign state's TPS designation, beneficiaries return to one of the following:
  - The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or terminated); or
  - Any other lawfully obtained immigration status or category they received while registered for TPS, if it is still valid beyond the date their TPS terminates.

When was Syria designated for TPS?

Syria was initially designated for TPS on March 29, 2012, on the basis of extraordinary and temporary conditions in Syria that prevented nationals of Syria from returning in safety.[2] Following the initial designation, the Secretary extended and redesignated Syria for TPS three times based on ongoing armed conflict and extraordinary and temporary conditions: (1) from October 1, 2013, to March 31, 2015; [3] (2) from April 1, 2015, to September 30, 2016; [4] and (3) from October 1, 2016, to March 31, 2018.[5] Thereafter, the Secretary extended TPS for Syria from April 1, 2018, to September 30, 2019,[6] and again on October 1, 2019, to March 31, 2021,[7] based on ongoing armed conflict and extraordinary and temporary conditions. Most recently, the Secretary extended and redesignated TPS for Syria based on ongoing armed conflict and extraordinary and temporary conditions from March 31, 2021, to September 30, 2022,[8] and from October 1, 2022, to March 31, 2024.[9]

What authority does the Secretary have to extend the designation of Syria for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate agencies of the U.S. Government, to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.[10] The decision to designate any foreign state (or part thereof) is a discretionary decision, and there is no judicial review of any determination with respect to the designation, termination, or extension of a designation. *See* INA sec. 244(b)(5)(A), 8 U.S.C. 1254a(b)(5)(A). The Secretary, in their discretion, may then grant TPS to eligible nationals of that foreign state (or individuals having no nationality who last habitually resided in the designated foreign state). *See* INA sec. 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a foreign state's TPS designation or extension, the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the foreign state designated for TPS to determine whether they continue to meet the conditions for the TPS designation. *See* INA sec. 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that the foreign state continues to meet the conditions for TPS designation, the designation will be extended for an additional period of 6 months or, in the Secretary's discretion, 12 or 18 months. *See* INA sec. 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA sec. 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

What is the Secretary's authority to redesignate Syria for TPS?

In addition to extending an existing TPS designation, the Secretary, after consultation with appropriate Government agencies, may redesignate a country (or part thereof) for TPS. *See* INA sec. 244(b)(1), 8 U.S.C. 1254a(b)(1); *see also* INA sec. 244(c)(1)(A)(i), 8 U.S.C. 1254a(c)(1)(A)(i) (requiring that ''the alien has been continuously

[1] The ''continuous physical presence'' date is the effective date of the most recent TPS designation of the country, which is either the publication date of the designation announcement in the **Federal Register** or a later date established by the Secretary. The ''continuous residence'' date is any date established by the Secretary when a country is designated (or sometimes redesignated) for TPS. *See* INA sec. 244(b)(2)(A) (effective date of designation); 244(c)(1)(A)(i–ii) (continuous residence and continuous physical presence date requirements); 8 U.S.C. 1254a(b)(2)(A); 1254a(c)(1)(A)(i–ii).

[2] *See Designation of Syrian Arab Republic for Temporary Protected Status,* 77 FR 19026 (Mar. 29, 2012).

[3] *See Extension and Redesignation of Syria for Temporary Protected Status,* 78 FR 36223 (June 17, 2013).

[4] *See Extension and Redesignation of the Syrian Arab Republic for Temporary Protected Status,* 80 FR 245 (Jan. 5, 2015).

[5] *See Extension and Redesignation of Syria for Temporary Protected Status,* 81 FR 50533 (Aug. 1, 2016).

[6] *See Extension of the Designation of Syria for Temporary Protected Status,* 83 FR 9329 (Mar. 5, 2018).

[7] *See Extension of the Designation of Syria for Temporary Protected Status,* 84 FR 49751 (Sept. 23, 2019).

[8] *See Extension and Redesignation of Syria for Temporary Protected Status,* 86 FR 14946 (Mar. 19, 2021).

[9] *See Extension and Redesignation of Syria for Temporary Protected Status,* 87 FR 46982 (Aug. 1, 2022).

[10] INA section 244(b)(1) ascribes this power to the Attorney General. Congress transferred this authority from the Attorney General to the Secretary of Homeland Security. *See* Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (2002). The Secretary may designate a country (or part of a country) for TPS on the basis of ongoing armed conflict such that returning would pose a serious threat to the personal safety of the country's nationals and habitual residents, environmental disaster (including an epidemic), or extraordinary and temporary conditions in the country that prevent the safe return of the country's nationals. For environmental disaster-based designations, certain other statutory requirements must be met, including that the foreign government must request TPS. A designation based on extraordinary and temporary conditions cannot be made if the Secretary finds that allowing the country's nationals to remain temporarily in the United States is contrary to the U.S. national interest. INA sec. 244(b)(1); 8 U.S.C. 1254a(b)(1).

physically present since the effective date of *the most recent designation of the state*'') (emphasis added).[11]

When the Secretary designates or redesignates a country for TPS, the Secretary also has the discretion to establish the date from which TPS applicants must demonstrate that they have been ''continuously resid[ing]'' in the United States. *See* INA sec. 244(c)(1)(A)(ii), 8 U.S.C. 1254a(c)(1)(A)(ii). The Secretary has determined that the ''continuous residence'' date for applicants for TPS under the redesignation of Syria will be January 25, 2024. Initial applicants for TPS under this redesignation must also show they have been ''continuously physically present'' in the United States since April 1, 2024, which is the effective date of the Secretary's redesignation of Syria. *See* INA sec. 244(c)(1)(A)(i), 8 U.S.C. 1254a(c)(1)(A)(i). For each initial TPS application filed under the redesignation, USCIS cannot make the final determination of whether the applicant has met the ''continuous physical presence'' requirement until April 1, 2024, the effective date of this redesignation for Syria. USCIS, however, will issue employment authorization documentation, as appropriate, during the registration period in accordance with 8 CFR 244.5(b).

Why is the Secretary extending the TPS designation for Syria and simultaneously redesignating Syria for TPS through September 30, 2025?

DHS has reviewed country conditions in Syria. Based on the review, including input received from DOS and other U.S. Government agencies, the Secretary has determined that an 18-month TPS extension is warranted because the ongoing armed conflict and extraordinary and temporary conditions supporting Syria's TPS designation remain. The Secretary has further determined that redesignating Syria for TPS under INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C) is warranted and is changing the continuous residence and continuous physical presence dates that applicants must meet to be eligible for TPS.

Overview

The ongoing civil war in Syria is in its thirteenth year and has involved large-scale destruction of infrastructure, widespread civilian casualties, and human rights abuses and violations. The humanitarian consequences are dire, including mass displacement of civilians, high levels of food insecurity, and limited access to healthcare and clean water. These impacts have been compounded by the February 6, 2023 earthquake, which resulted in the further destruction of infrastructure and has contributed to the further breakdown of the economy and strained an already overburdened healthcare system.[12] [13]

Armed Conflict and Security Situation

The armed conflict in Syria continues to include numerous local and international actors, such as the Syrian regime, foreign states, opposition groups, and terrorist groups, like ISIS.[14] [15] Syrian civilians are suffering with 61 percent of Syria's pre-war population displaced, and Syria remains the third least peaceful country in the world according to the Global Peace Index (GPI).[16] The United Nations High Commissioner for Refugees (UNHCR) reports 5,183,140 Syrian refugees in neighboring countries,[17] and 6.8 million people internally displaced (IDPs) within Syria—the highest in the world.[18]

The conflict and its levels of violence are regularly in flux. Ongoing hostilities in several parts of the country include ''artillery shelling, air strikes and land mines, [and] continue to threaten the lives of civilians and hamper humanitarian activities.'' [19] In January 2023, regime-controlled areas experienced ''an alarming escalation of violence, worsening living conditions, tightening security grip and ongoing arbitrary arrests.'' [20] On October 5, 2023, northern Syria experienced renewed hostilities with reports of multiple attacks by regime-forces that killed civilians and damaged vital civilian infrastructure across the region.[21] Since October 5, 2023, parties to the conflict have engaged in continuous shelling and airstrikes, which have struck more than 1,400 locations, including frontline and residential areas, in Idlib and western Aleppo.[22] As of October 13, at least 53 people in affected areas have been killed, including 11 women and 15 children, and 303 others injured as reported by local health authorities since the start of the incidents on October 5.[23]

Since the conflict began, civilian casualty counts have varied among media sources and human rights groups, in part due to the large number of missing and forcibly disappeared Syrians. Human rights groups estimate more than 550,000 people have been

[11] The extension and redesignation of TPS for Syria is one of several instances in which the Secretary and, before the establishment of DHS, the Attorney General, have simultaneously extended a country's TPS designation and redesignated the country for TPS. *See, e.g., Extension and Redesignation of Haiti for Temporary Protected Status,* 76 FR 29000 (May 19, 2011); *Extension and Re-designation of Temporary Protected Status for Sudan,* 69 FR 60168 (Oct. 7, 2004); *Extension of Designation and Redesignation of Liberia Under Temporary Protected Status Program,* 62 FR 16608 (Apr. 7, 1997).

[12] International Blue Crescent, Kahramanmaraş Earthquakes Situation Report, Apr. 6, 2023, 6, available at *https://reliefweb.int/report/turkiye/devastating-earthquakes-southern-turkiye-and-northern-syria-april-6th-2023-situation-report-20-entr* (last visited Oct. 10, 2023).

[13] The World Bank, Syria Earthquake 2023 Rapid Damage and Needs Assessment (RDNA), Mar. 2023, 48, available at *https://reliefweb.int/report/syrian-arab-republic/syria-earthquake-2023-rapid-damage-and-needs-assessment-rdna-enar* (last visited Nov. 9, 2023).

[14] *See* U.S. Dep't of State, 2022 Country Report on Human Rights Practices: Syria, Mar. 20, 2023, available at *https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/syria/#:~:text=As%20of%20December%2C%20the%20SNHR,Directorate%2C%20Air%20Force%20Intelligence%20Directorate%2C* (last visited Oct. 5, 2023).

[15] U.N. Gen. Assembly Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, Aug. 14, 2023, available at *https://www.ohchr.org/en/hr-bodies/hrc/iici-syria/report-coi-syria-september2023* (last visited Nov. 27, 2023).

[16] Inst. for Economics and Peace, Global Peace Index 2023: Measuring Peace in a Complex World, June 2023, 28, available at *http://visionofhumanity.org/resources* (last visited Oct. 26, 2023).

[17] UNHCR, Situation Syria Regional Refugee Response, lasted updated Nov. 30, 2023, available at *https://data2.unhcr.org/en/situations/syria* (last visited Dec. 13, 2023).

[18] UNHCR, Syria: UNHCR Operational Update, September 2023, Oct. 18, 2023, 1, available at *https://reliefweb.int/report/syrian-arab-republic/syria-unhcr-operational-update-september-2023-enar* (last visited Oct. 27, 2023).

[19] UNOCHA, Humanitarian Needs Overview: Syrian Arab Republic, 12 (Dec. 22, 2022), available at *hno_2023-rev-1.12_1.pdf* (humanitarianresponse.info) (last visited Oct. 5, 2023).

[20] The Syrian Observatory for Human Rights, Regime-controlled areas in January 2023 Nearly 190 fatalities in acts of violence . . . 12 assassinations and attacks in three provinces . . . escalating living crises, Feb. 9, 2023, available at *https://www.syriahr.com/en/288096/* (last visited Oct. 6, 2023).

[21] UNOCHA, Joint Statement by the United Nations Resident Coordinator and Humanitarian Coordinator for Syria, Mr. Adam Abdelmoula, and the Regional Humanitarian Coordinator for the Syria Crisis, Mr. Muhannad Hadi, on the renewed hostilities in northern Syria, Oct. 6, 2023, available at *https://reliefweb.int/report/syrian-arab-republic/joint-statement-united-nations-resident-coordinator-and-humanitarian-coordinator-syria-mr-adam-abdelmoula-and-regional-humanitarian-coordinator-syria-crisis-mr-muhannad-hadi-renewed-hostilities-northern-syria-enar* (last visited Oct. 6, 2023).

[22] UNOCHA, North-west Syria: Escalation of Hostilities—Flash Update No. 3, Oct. 13, 2023, available at *https://reliefweb.int/report/syrian-arab-republic/north-west-syria-escalation-hostilities-flash-update-no3-13-october-2023-enar* (last visited Oct. 26, 2023).

[23] *Id.*

killed since the start of the conflict.[24] Armed actors, including those of the Syrian regime and its Russian allies, continue to strike civilians and civilian facilities.[25] The Syrian Network for Human Rights (SNHR) reported that ground attacks and airstrikes ''have caused the destruction of homes, schools, hospitals, shops and other structures, and that there are reasonable grounds to believe that the war crime of attacking civilians has been committed in many cases.'' [26] In the first half of 2023, through June, SNHR documented that parties to the conflict and controlling forces in Syria killed 501 civilians, including 71 children and 42 women.[27]

Human Rights Abuses and Civilian Deaths

The Syrian regime and other armed actors continue to commit human rights abuses. There are documented reports of unjust killings, arbitrary arrests, enforced disappearances, forced displacements, seizures of land and properties, and rampant security instability that have ''provided a ripe environment for many assassinations and bombings.'' [28] During the January 2023 escalation of violence in regime-controlled areas, SNHR reported that 55 civilians died, at least 42 civilians were arbitrarily arrested by regime forces and intelligence services, and 14 civilians were kidnapped.[29] SNHR reported that, in the first half of 2023, 20 individuals, including civilians, died due to torture and that the Syrian regime was reportedly responsible for the deaths of 30 percent of these individuals.[30]

Humanitarian and Economic Situation

Since 2022, the number of people in Syria in need of humanitarian assistance has increased by five percent to 15.3 million people, which is over two thirds of the population.[31] Of those 15.3 million people, there are 7 million children currently in need of humanitarian assistance.[32] According to the European Union's Directorate-General for Civil Protection and Humanitarian Aid Operations, 85 percent of households cannot meet their basic needs, over half the population lacks a stable water source, and more than 12 million people are food insecure.[33]

Food insecurity is of particular concern as the Syrian economy has been rapidly deteriorating.[34] Syria is experiencing hyperinflation with a record depreciation of the Syrian pound, which has led to substantial food and fuel price hikes.[35] [36] About, 12.1 million Syrians (almost 60 percent of the population) are considered food insecure, with an additional three million more Syrians at risk of food insecurity.[37] After years of conflict, Syria is now one of six countries ''with the highest food insecurity in the world.'' [38] Over the course of the conflict ''wheat production has declined by 75 per cent due to damaged infrastructure, the high cost of fuel, and drought-like conditions.'' [39]

The February 6, 2023 earthquake and subsequent aftershock that hit southern Turkey near the Syrian border also contributed to the worsening humanitarian situation and economic deterioration in Syria.[40] According to the International Blue Crescent Relief and Development Foundation, the earthquake killed 8,476 people in Syria.[41] In addition to the loss of life, the earthquake has also had devastating effects on Syria's economy, infrastructure, and health sector.[42] Prior to the earthquake, 90 percent of Syrians lived in poverty.[43] The effect of the earthquake in the northern border region of Syria resulted in further economic hardships. An estimated 170,000 employees lost their jobs because of the earthquake and approximately 35,000 micro, small, and medium sized businesses were damaged.[44] As a result, Syria's temporary loss of employment has been calculated to be a loss of labor income equal to at least 5.7 million dollars per month.[45] The United Nations estimates that Syria needs almost 15 billion dollars to recover from the earthquakes.[46]

Healthcare Needs and Access to Water

Over 15.3 million people in Syria need healthcare assistance, which is an

[24] U.S. Dep't of State, 2022 Country Report on Human Rights Practices: Syria, Mar. 20, 2023, available at *https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/syria/#:~:text=As%20of%20December%2C%20the%20SNHR,Directorate%2C%20Air%20Force%20Intelligence%20Directorate%2C* (last visited Dec. 7, 2023).

[25] Syrian Network for Human Rights, Most Notable Human Rights Violations in Syria in May 2023, June 5, 2023, available at *https://reliefweb.int/report/syrian-arab-republic/most-notable-human-rights-violations-syria-may-2023* (last visited Oct. 10, 2023).

[26] *Id.*

[27] Syrian Network for Human Rights, 501 Civilians, Including 71 Children, 42 Woman, and 20 Individuals Who Died due to Torture Documented Killed in Syria, in the First Half of 2023, July 2, 2023, 7, available at *https://reliefweb.int/report/syrian-arab-republic/501-civilians-including-71-children-42-woman-and-20-individuals-who-died-due-torture-documented-killed-syria-first-half-2023* (last visited Oct. 5, 2023).

[28] Syrian Network for Human Rights, 12th Annual Report—Most notable violations in 2022, 6–7, Jan. 24, 2023, available at *https://snhr.org/blog/2023/01/24/snhrs-12th-annual-report-most-notable-human-rights-violations-in-syria-in-2022/* (last visited Oct. 5, 2023).

[29] The Syrian Observatory for Human Rights, Regime-controlled areas in January 2023 Nearly 190 fatalities in acts of violence . . . 12 assassinations and attacks in three provinces . . . escalating living crises, Feb. 9, 2023, available at *https://www.syriahr.com/en/288096/* (last visited Oct. 6, 2023).

[30] Syrian Network for Human Rights, 501 Civilians, Including 71 Children, 42 Woman, and 20 Individuals Who Died due to Torture Documented Killed in Syria, in the First Half of 2023, July 2, 2023, 13, available at *https://reliefweb.int/report/syrian-arab-republic/501-civilians-including-71-children-42-woman-and-20-individuals-who-died-due-torture-documented-killed-syria-first-half-2023* (last visited Oct. 5, 2023).

[31] UNHCR, Syria: UNHCR Operational Update, September 2023, Oct. 18, 2023, available at *https://reliefweb.int/report/syrian-arab-republic/syria-unhcr-operational-update-september-2023-enar* (last visited Oct. 27, 2023).

[32] UNICEF, Humanitarian Action for Children 2023—Syria, June 2023, available at *https://www.unicef.org/media/143511/file/2023-HAC-Syrian-Arab-Republic-revised-June.pdf* (last visited Nov. 27, 2023).

[33] European Commission, European Civil Protection and Humanitarian Aid Operations, Syria, last updated Nov. 24, 2023, available at *https://civil-protection-humanitarian-aid.ec.europa.eu/where/middle-east-and-northern-africa/syria_en* (last visited Oct. 6, 2023).

[34] World Food Programme, Syria—Market Price Watch Bulletin July 2023, Aug. 23, 2023, available at *https://reliefweb.int/report/syrian-arab-republic/syria-market-price-watch-bulletin-july-2023* (last visited Sept. 27, 2023).

[35] Reuters, *Syria slashes gasoline subsidy, boosts public-sector salaries,* Aug. 16, 2023, available at *https://www.reuters.com/world/middle-east/syria-slashes-gasoline-subsidy-boosts-public-sector-salaries-2023-08-16/* (last visited Oct. 6, 2023).

[36] BBC News, *Syria doubles public-sector pay and cuts subsidies as economy sinks,* Aug. 16, 2023, available at *https://www.bbc.com/news/world-middle-east-66526132* (last visited Oct. 6, 2023).

[37] UN News, *More than half of all Syrians going hungry: WFP,* Mar. 14, 2023, available at *https://news.un.org/en/story/2023/03/1134567* (last visited Oct. 6, 2023).

[38] *Id.*

[39] *Id.*

[40] Erol Yayboke, Shattered Relief: A 7.8-Magnitude Earthquake Strikes Turkey and Syria, CSIS, Feb. 7, 2023, available at *https://www.csis.org/analysis/shattered-relief-78-magnitude-earthquake-strikes-turkey-and-syria* (last visited Oct. 10, 2023).

[41] International Blue Crescent, Kahramanmaraş Earthquakes Situation Report, Apr. 6, 2023, 2, available at *https://reliefweb.int/report/turkiye/devastating-earthquakes-southern-turkiye-and-northern-syria-april-6th-2023-situation-report-20-entr* (last visited Oct. 10, 2023).

[42] *Id.*

[43] Middle East Monitor, *UN Chief says 90% of Syrians live below poverty line,* Jan. 14, 2022, available at *https://www.middleeastmonitor.com/20220114-un-chief-says-90-of-syrians-live-below-poverty-line/* (last visited Oct. 10, 2023).

[44] International Blue Crescent, Kahramanmaraş Earthquakes Situation Report, Apr. 6, 2023, 6, available at *https://reliefweb.int/report/turkiye/devastating-earthquakes-southern-turkiye-and-northern-syria-april-6th-2023-situation-report-20-entr* (last visited Oct. 10, 2023).

[45] *Id.*

[46] UN News, *Almost $15 billion needed for earthquake recovery in Syria,* May 8, 2023, available at *https://news.un.org/en/story/2023/05/1136452* (last visited Oct. 6, 2023).

increase of 3.2 million people from 2022.[47] The World Health Organization reports that 41 percent of public hospitals and 43 percent of primary health care facilities are either partially functioning or not functioning at all.[48] Further, up to 50 percent of healthcare workers have fled Syria since the start of the conflict.[49] In January 2023, sources in regime-controlled areas reported a lack of medicine in pharmacies as well as a significant increase in the prices of medicine for heart disease, epilepsy, diabetes, cancer, and the flu.[50]

Access to clean water outside of northwest Syria continues to be a serious situation for many Syrians as 52 percent of Syrians lack access to clean water and must turn to unsafe alternatives, such as polluted rivers or unregulated private companies providing unclean water.[51] Before the war, 92 percent of Syrians had consistent access to clean water but over the last few years, Syria's water infrastructure has deteriorated quickly, whether because of the conflict, climate change, Syria's energy crisis, and/or conflict actors limiting access to water as a political pressure tactic.[52] Without clean water, Syrians must forego basic hygiene and clean drinking water, which leaves Syrians at risk for infectious waterborne diseases.[53]

In February 2023, the earthquake exacerbated the health care system in northwest Syria, the area that saw most of the damage.[54] The World Bank estimates that the total effect of both the damage and loss due to the earthquake on Syria's health sector is 300.4 million dollars.[55] Northwest Syria's earthquake-damaged infrastructure includes water, sanitation, and hygiene, and healthcare facilities, raising health concerns related to contaminated water and an increased risk of waterborne illness.[56] [57]

In summary, over a decade after the uprising that sparked the war, the Syrian conflict remains ongoing and detrimental impacts on the country continue. Armed actors continue to kill civilians and destroy vital civilian infrastructure, the economy is rapidly deteriorating, and Syrians cannot afford their basic needs, such as food and healthcare. Further, the lack of access to clean water has created a serious problem for those in most of the country. The February 2023 earthquake further complicated these issues.

Based on this review and after consultation with appropriate U.S. Government agencies, the Secretary has determined that:

- The conditions supporting Syria's designation for TPS continue to be met. *See* INA sec. 244(b)(3)(A) and (C), 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continues to be an ongoing armed conflict in Syria and, due to such conflict, requiring the return to Syria of Syrian nationals (or individuals having no nationality who last habitually resided in Syria) would pose a serious threat to their personal safety. *See* INA sec. 244(b)(1)(A), 8 U.S.C. 1254a(b)(1)(A).
- There continue to be extraordinary and temporary conditions in Syria that prevent Syrian nationals (or individuals having no nationality who last habitually resided in Syria) from returning to Syria in safety, and it is not contrary to the national interest of the United States to permit Syrian TPS beneficiaries to remain in the United States temporarily. *See* INA sec. 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- The designation of Syria for TPS should be extended for an 18-month period, beginning on April 1, 2024, and ending on September 30, 2025. *See* INA sec. 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).
- Due to the conditions described above, Syria should be simultaneously extended and redesignated for TPS beginning on April 1, 2024, and ending on September 30, 2025. *See* INA sec. 244(b)(1)(A) and (C) and (b)(2), 8 U.S.C. 1254a(b)(1)(A) and (C) and (b)(2).
- For the redesignation, the Secretary has determined that TPS applicants must demonstrate that they have continuously resided in the United States since January 25, 2024.
- Initial TPS applicants under the redesignation must demonstrate that they have been continuously physically present in the United States since April 1, 2024, the effective date of the redesignation of Syria for TPS.
- There are approximately 6,200 current Syria TPS beneficiaries who are eligible to re-register for TPS under the extension.
- It is estimated that approximately 2,500 additional individuals may be eligible for TPS under the redesignation of Syria. This population includes Syrian nationals in the United States in nonimmigrant status or without immigration status.

Notice of the Designation of Syria for TPS

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate U.S. Government agencies, the statutory conditions supporting Syria's designation for TPS on the basis of ongoing armed conflict and extraordinary and temporary conditions are met and it is not contrary to the national interest of the United States to allow Syrian TPS beneficiaries to remain in the United States temporarily. *See* INA sec. 244(b)(1)(A), (C); 8 U.S.C. 1254a(b)(1)(A), (C). On the basis of this determination, I am simultaneously extending the existing designation of Syria for TPS for 18 months, beginning on April 1, 2024, and ending on September 30, 2025, and redesignating Syria for TPS for the same 18-month period. *See* INA sec. 244(b)(1)(A), (C), and (b)(2); 8 U.S.C. 1254a(b)(1)(A), (C), and (b)(2).

Alejandro N. Mayorkas

Secretary, U.S. Department of Homeland Security.

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[47] World Health Organization, Health sector needs HNO 2023, Dec. 4, 2022, available at *https://reliefweb.int/report/syrian-arab-republic/health-sector-needs-hno-2023* (last visited Oct. 12, 2023).

[48] *Id.*

[49] World Health Organization, Syrian Arab Republic: Public Health Situation Analysis (PHSA) Long-form, Aug. 18, 2022, 2, available at *https://reliefweb.int/report/syrian-arab-republic/syrian-arab-republic-public-health-situation-analysis-phsa-long-form-last-update-18-august-2022* (last visited Oct. 12, 2023).

[50] The Syrian Observatory for Human Rights, Regime-controlled areas in January 2023 Nearly 190 fatalities in acts of violence . . . 12 assassinations and attacks in three provinces . . . escalating living crises, Feb. 9, 2023, available at *https://www.syriahr.com/en/288096/* (last visited Oct. 6, 2023).

[51] The Century Foundation, Cholera in the Time of Assad: How Syria's Water Crisis Caused an Avoidable Outbreak, Jan. 24, 2023, available at *https://tcf.org/content/report/cholera-in-the-time-of-assad-how-syrias-water-crisis-caused-an-avoidable-outbreak/#:~:text=According%20to%20UN%20data%20collected,over%20the%20past%20few%20years.* (last visited Oct. 10, 2023).

[52] *Id.*

[53] *Id.*

[54] The World Bank, Syria Earthquake 2023 Rapid Damage and Needs Assessment (RDNA), Mar. 2023, 48, available at *https://reliefweb.int/report/syrian-arab-republic/syria-earthquake-2023-rapid-damage-and-needs-assessment-rdna-enar* (last visited Nov. 9, 2023).

[55] *Id.*

[56] Maia C Tarnas, Naser Almhawish, Nabil Karah, Richard Sullivan, & Aula Abbara, *Communicable diseases in northwest Syria in the context of protracted armed conflict and earthquakes,* The Lancet Infectious Diseases, July 2023, ISSN 1473–3099, available at *https://doi.org/10.1016/S1473-3099(23)00201-3* (last visited Oct. 6, 2023).

[57] The World Bank, Syria Earthquake 2023 Rapid Damage and Needs Assessment (RDNA), Mar. 2023, 49, available at *https://reliefweb.int/report/syrian-arab-republic/syria-earthquake-2023-rapid-damage-and-needs-assessment-rdna-enar* (last visited Oct. 10, 2023).

Eligibility and Employment Authorization for TPS

Required Application Forms and Application Fees To Register or Re-Register for TPS

To register or re-register for TPS based on the designation of Syria, you must submit a Form I–821, Application for Temporary Protected Status. If you are submitting an initial TPS application, you must pay the application fee for Form I–821 (or request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver). If you are filing an application to re-register for TPS, you do not need to pay the application fee. Whether you are registering as an initial applicant or re-registering, you may be required to pay the biometric services fee. If you can demonstrate an inability to pay the biometric services fee, you may request to have the fee waived. Please see additional information under the ''Biometric Services Fee'' section of this notice.

TPS beneficiaries are eligible for an Employment Authorization Document (EAD), which proves their authorization to work in the United States. You are not required to submit Form I–765, Application for Employment Authorization, or have an EAD to be granted TPS, but see below for more information if you want an EAD to use as proof that you can work in the United States.

Individuals who have a Syria TPS application (Form I–821) that was still pending as of January 29, 2024, do not need to file the application again. If USCIS approves an individual's Form I–821, USCIS will grant the individual TPS through September 30, 2025.

For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *https://www.uscis.gov/tps.* Fees for the Form I–821, the Form I–765, and biometric services are also described in 8 CFR 103.7(b)(1) (Oct. 1, 2020). The instructions for Form I–821 and Form I–765 also provide more information on requirements and fees for both initial TPS applicants and existing TPS beneficiaries who are re-registering.

How can TPS beneficiaries obtain an employment authorization document (EAD)?

Everyone must provide their employer with documentation showing that they have the legal right to work in the United States. TPS beneficiaries are eligible to obtain an EAD, which proves their legal right to work. If you want to obtain an EAD, you must file Form I–765 and pay the Form I–765 fee (or request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver). TPS applicants may file this form with their TPS application, or separately later, if their TPS application is still pending or has been approved. Beneficiaries with a Syria TPS-related Form I–765 that was still pending as of January 29, 2024 do not need to file the application again. If USCIS approves a pending TPS-related Form I–765, USCIS will issue the individual a new EAD that will be valid through September 30, 2025.

Refiling An Initial TPS Registration Application After Receiving a Denial of a Fee Waiver Request

If USCIS denies your fee waiver request, you can resubmit your TPS application. The fee waiver denial notice will contain specific instructions about resubmitting your application.

Filing Information

You may file Form I–821 and related requests for EADs online or by mail. However, if you request a fee waiver, you must submit your application by mail. When filing a TPS application, applicants may request an EAD by submitting a completed Form I–765 with their Form I–821.

Online filing: Form I–821 and Form I–765 are available for concurrent filing online.[58] To file these forms online, you must first create a USCIS online account.[59]

Mail filing: Mail your completed Form I–821, Application for Temporary Protected Status; Form I–765, Application for Employment Authorization, if applicable; Form I–912, Request for Fee Waiver (if applicable); and supporting documentation to the proper address in Table 1-Mailing Addresses.

TABLE 1—MAILING ADDRESSES

If you send your paper application via:	Then, mail your application to:
U.S. Postal Service (USPS)	USCIS, Attn: TPS Syria, P.O. Box 6943, Chicago, IL 60680–6943.
FedEx, UPS, or DHL deliveries	USCIS, Attn: TPS Syria (Box 6943), 131 S Dearborn 3rd Floor, Chicago, IL 60603–5517.

If you were granted TPS by an immigration judge or the Board of Immigration Appeals (BIA) and you wish to request an EAD, please file online or mail your Form I–765 to the appropriate address in Table 1. If you file online, please include the fee. If you file by mail, please include the fee or fee waiver request. When you request an EAD based on an immigration judge or BIA grant of TPS, please include with your application a copy of the order from the immigration judge or BIA granting you TPS. This will help us verify your grant of TPS and process your application.

Supporting Documents

The filing instructions on Form I–821 list all the documents needed to establish eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying (also called, registering) for TPS on the USCIS website at *https://www.uscis.gov/tps* under ''Syria.''

Travel

TPS beneficiaries may also apply for and be granted travel authorization as a matter of discretion. You must file for travel authorization if you wish to travel outside of the United States. If granted, travel authorization gives you permission to leave the United States and return during a specific period. To request travel authorization, you must file Form I–131, Application for Travel Document, available at *https://www.uscis.gov/i-131.* You may file Form I–131 together with your Form I–821 or separately. When filing Form I–131, you must:

- Select Item Number 1.d. in Part 2 on the Form I–131; and
- Submit the fee for Form I–131, or request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver.

[58] Find information about online filing at ''Forms Available to File Online,'' *https://www.uscis.gov/file-online/forms-available-to-file-online.*

[59] *https://myaccount.uscis.gov/users/sign_up.*

If you are filing Form I–131 together with Form I–821, send your forms to the address listed in Table 1. If you are filing Form I–131 separately based on a pending or approved Form I–821, send your form to the address listed in Table 2 and include a copy of Form I–797 for the approved or pending Form I–821.

TABLE 2—MAILING ADDRESSES

If you are . . .	Mail to . . .
Filing Form I–131 together with a Form I–821, Application for Temporary Protected Status.	The address provided in Table 1.
Filing Form I–131 based on a pending or approved Form I–821, and you are using the U.S. Postal Service (USPS): You must include a copy of the receipt notice (Form I–797 or I–797C) showing we accepted or approved your Form I–821.	USCIS Attn: I–131 TPS, P.O. Box 660167, Dallas, TX 75266–0867.
Filing Form I–131 based on a pending or approved Form I–821, and you are using FedEx, UPS, or DHL: You must include a copy of the receipt notice (Form I–797 or I–797C) showing we accepted or approved your Form I–821.	USCIS Attn: I–131 TPS, 2501 S State Hwy. 121 Business, Ste. 400, Lewisville, TX 75067.

Biometric Services Fee for TPS

Biometrics (such as fingerprints) are required for all applicants 14 years of age and older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay the biometric services fee, you may request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver. For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *https://www.uscis.gov/tps.* USCIS may require you to visit an Application Support Center to submit biometrics. For additional information on the USCIS biometric screening process, please see the USCIS Customer Profile Management Service Privacy Impact Assessment, available at *https://www.dhs.gov/publication/dhsuscispia-060-customer-profile-management-service-cpms.*

General Employment-Related Information for TPS Applicants and Their Employers

How can I obtain information on the status of my TPS application and EAD request?

To get case status information about your TPS application, as well as the status of your TPS-based EAD request, you can check Case Status Online at uscis.gov or visit the USCIS Contact Center at *https://www.uscis.gov/contactcenter.* If your Form I–765 has been pending for more than 90 days, and you still need assistance, you may ask a question about your case online at *https://egov.uscis.gov/e-request/Intro.do* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

Am I eligible to receive an automatic extension of my current EAD through March 31, 2025, through this Federal Register notice?

Yes. Regardless of your country of birth, if you currently have a Syria TPS-based EAD with the notation A–12 or C–19 under Category and a Card Expires date of March 31, 2024, September 30, 2022, or March 31, 2021, this **Federal Register** notice automatically extends your EAD through March 31, 2025. Although this **Federal Register** notice automatically extends your EAD through March 31, 2025, you must timely re-register for TPS in accordance with the procedures described in this **Federal Register** notice to maintain your TPS and employment authorization.

When hired, what documentation may I show to my employer as evidence of identity and employment authorization when completing Form I–9?

You can find the Lists of Acceptable Documents on Form I–9, Employment Eligibility Verification, as well as the Acceptable Documents web page at *https://www.uscis.gov/i-9-central/acceptable-documents.* Employers must complete Form I–9 to verify the identity and employment authorization of all new employees. Within three days of hire, employees must present acceptable documents to their employers as evidence of identity and employment authorization to satisfy Form I–9 requirements.

You may present any document from List A (which provides evidence of both identity and employment authorization) or one document from List B (which provides evidence of your identity) together with one document from List C (which provides evidence of employment authorization), or you may present an acceptable receipt as described in the Form I–9 Instructions. Employers may not reject a document based on a future expiration date. You can find additional information about Form I–9 on the I–9 Central web page at *https://www.uscis.gov/I-9Central.* An EAD is an acceptable document under List A. See the section ''How do my employer and I complete Form I–9 using my automatically extended EAD for a new job?'' of this **Federal Register** notice for more information. If your EAD states A–12 or C–19 under Category and has a Card Expires date of March 31, 2024, September 30, 2022, or March 31, 2021, this **Federal Register** notice extends it automatically, and you may choose to present your EAD to your employer as proof of identity and employment eligibility for Form I–9 through March 31, 2025, unless your TPS has been withdrawn or your request for TPS has been denied. Your country of birth noted on the EAD does not have to reflect the TPS-designated country of Syria for you to be eligible for this extension.

What documentation may I present to my employer for Form I–9 if I am already employed but my current TPS-related EAD is set to expire?

Even though we have automatically extended your EAD, your employer is required by law to ask you about your continued employment authorization. Your employer may need to re-examine your automatically extended EAD to check the Card Expires date and Category code if your employer did not keep a copy of your EAD when you initially presented it. Once your employer has reviewed the Card Expires date and Category code, they should update the EAD expiration date in Section 2 of Form I–9. See the section ''What updates should my current employer make to Form I–9 if my EAD has been automatically extended?'' of this **Federal Register** notice for more information. You may show this **Federal Register** notice to your employer to

explain what to do for Form I–9 and to show that USCIS has automatically extended your EAD through March 31, 2025, but you are not required to do so. The last day of the automatic EAD extension is March 31, 2025. Before you start work on April 1, 2025, your employer is required by law to reverify your employment authorization on Form I–9. By that time, you must present any document from List A or any document from List C on Form I–9 Lists of Acceptable Documents, or an acceptable List A or List C receipt described in the Form I–9 instructions to reverify employment authorization.

Your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

If I have an EAD based on another immigration status, can I obtain a new TPS-based EAD?

Yes, if you are eligible for TPS, you can obtain a new TPS-based EAD, even if you have an EAD or work authorization based on another immigration status. If you want to obtain a new TPS-based EAD valid through September 30, 2025, then you must file Form I–765, Application for Employment Authorization, and pay the associated fee (unless USCIS grants your fee waiver request).

Can my employer require that I provide any other documentation such as evidence of my status, proof of my Syrian citizenship, or a Form I–797C showing that I registered for TPS for Form I–9 completion?

No. When completing Form I–9, employers must accept any documentation you choose to present from the Form I–9 Lists of Acceptable Documents that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers may not request other documentation, such as proof of Syrian citizenship or proof of registration for TPS when completing Form I–9 for new hires or reverifying the employment authorization of current employees. If you present an EAD that USCIS has automatically extended, employers should accept it as a valid List A document if the EAD reasonably appears to be genuine and to relate to you. Refer to the ''Note to Employees'' section of this **Federal Register** notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status or your national origin.

How do my employer and I complete Form I–9 using my automatically extended EAD for a new job?

When using an automatically extended EAD to complete Form I–9 for a new job before April 1, 2025:

1. For Section 1, you should:

a. Check ''A noncitizen authorized to work until'' and enter March 31, 2025, as the ''expiration date''; and

b. Enter your USCIS number or A-Number where indicated. (Your EAD or other document from DHS will have your USCIS number or A-Number printed on it; the USCIS number is the same as your A-Number without the A prefix.)

2. For Section 2, employers should:

a. Determine whether the EAD is auto-extended by ensuring it is in category A–12 or C–19 and has a Card Expires date of March 31, 2024, September 30, 2022 or March 31, 2021;

b. Write in the document title;

c. Enter the issuing authority;

d. Provide the document number; and

e. Write March 31, 2025, as the expiration date.

Before the start of work on April 1, 2025, employers must reverify the employee's employment authorization on Form I–9.

What updates should my current employer make to Form I–9 if my EAD has been automatically extended?

If you presented a TPS-related EAD that was valid when you first started your job and USCIS has now automatically extended your EAD, your employer may need to re-examine your current EAD if they do not have a copy of the EAD on file. Your employer should determine whether your EAD is automatically extended by ensuring that it contains Category A–12 or C–19 and has a Card Expires date of March 31, 2024, September 30, 2022, or March 31, 2021. Your employer may not rely on the country of birth listed on the card to determine whether you are eligible for this extension.

If your employer determines that USCIS has automatically extended your EAD, your employer should update Section 2 of your previously completed Form I–9 as follows:

1. Write EAD EXT and March 31, 2025, as the last day of the automatic extension in the Additional Information field; and

2. Initial and date the correction.

Note: This is not considered a reverification. Employers do not reverify the employee until either the automatic extension has ended, or the employee presents a new document to show continued employment authorization, whichever is sooner. By April 1, 2025, when the employee's automatically extended EAD has expired, employers are required by law to reverify the employee's employment authorization on Form I–9.

If I am an employer enrolled in E-Verify, how do I verify a new employee whose EAD has been automatically extended?

Employers may create a case in E-Verify for a new employee by entering the number from the Document Number field on Form I–9 into the document number field in E-Verify. Employers should enter March 31, 2025, as the expiration date for an EAD that has been extended under this **Federal Register** notice.

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiring'' alert for an automatically extended EAD?

E-Verify automated the verification process for TPS-related EADs that are automatically extended. If you have employees who provided a TPS-related EAD when they first started working for you, you will receive a ''Work Authorization Documents Expiring'' case alert when the auto-extension period for this EAD is about to expire. Before this employee starts work on April 1, 2025, you must reverify their employment authorization on Form I–9. Employers may not use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I-9Central@uscis.dhs.gov.* USCIS accepts calls and emails in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I–9 and E-Verify), employers may call the U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (IER) Employer Hotline at 800–255–8155 (TTY 800–237–2515). IER offers language interpretation in

numerous languages. Employers may also email IER at *IER@usdoj.gov* or get more information online at *www.justice.gov/ier.*

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I-9Central@uscis.dhs.gov.* USCIS accepts calls in English, Spanish and many other languages. Employees or job applicants may also call the U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (IER) Worker Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based on citizenship, immigration status, or national origin, including discrimination related to Form I–9 and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Form I–9 Instructions. Employers may not require extra or additional documentation other than what is required to complete Form I–9. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (mismatch) must promptly inform employees of the mismatch and give these employees an opportunity to resolve the mismatch. A mismatch means that the information entered into E-Verify from Form I–9 differs from records available to DHS.

Employers may not terminate, suspend, delay training, withhold or lower pay, or take any adverse action against an employee because of a mismatch while the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot confirm an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Form I–9 and E-Verify procedures is available on the IER website at *https://www.justice.gov/ier* and the USCIS and E-Verify websites at *https://www.uscis.gov/i-9-central* and *https://www.e-verify.gov.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

For Federal purposes, if you present an automatically extended EAD referenced in this **Federal Register** notice, you do not need to show any other document, such as a Form I–797C, Notice of Action, reflecting receipt of a Form I–765 EAD renewal application or this **Federal Register** notice, to prove that you qualify for this extension. While Federal Government agencies must follow the guidelines laid out by the Federal Government, State and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, State, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary or applicant, show you are authorized to work based on TPS or other status, or that may be used by DHS to determine if you have TPS or another immigration status. Examples of such documents are:

- Your current EAD with a TPS category code of A–12 or C–19, even if your country of birth noted on the EAD does not reflect the TPS-designated country of Syria;
- Your Form I–94, Arrival/Departure Record;
- Your Form I–797, Notice of Action, reflecting approval of your Form I–765; or
- Form I–797 or Form I–797C, Notice of Action, reflecting approval or receipt of a past or current Form I–821, if you received one from USCIS.

Check with the government agency requesting documentation about which document(s) the agency will accept. Some state and local government agencies use the SAVE program to confirm the current immigration status of applicants for public benefits.

While SAVE can verify that an individual has TPS, each agency's procedures govern whether they will accept an unexpired EAD, Form I–797, Form I–797C, or Form I–94, Arrival/Departure Record. If an agency accepts the type of TPS-related document you present, such as an EAD, the agency should accept your automatically extended EAD, regardless of the country of birth listed on the EAD. It may assist the agency if you:

a. Give the agency a copy of the relevant **Federal Register** notice showing the extension of TPS-related documentation in addition to your recent TPS-related document with your A-number, USCIS number, or Form I–94 number;

b. Explain that SAVE will be able to verify the continuation of your TPS using this information; and

c. Ask the agency to initiate a SAVE query with your information and follow through with additional verification steps, if necessary, to get a final SAVE response verifying your TPS.

You can also ask the agency to look for SAVE notices or contact SAVE if they have any questions about your immigration status or automatic extension of TPS-related documentation. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but occasionally verification can be delayed.

You can check the status of your SAVE verification by using CaseCheck at *https://www.uscis.gov/save/save-casecheck.* CaseCheck is a free service that lets you follow the progress of your SAVE verification case using your date of birth and one immigration identifier number (such as A-number, USCIS number, or Form I–94 number) or Verification Case Number. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted on or will act on a SAVE verification and you do not believe the SAVE response is correct, the SAVE website, *https://www.uscis.gov/save/save-resources,* has detailed information on how to make corrections or update your immigration record, make an appointment, or submit a written request to correct records.

[FR Doc. 2024–01764 Filed 1–26–24; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/ A0A501010.999900]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact Between Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation, Montana and the State of Montana

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the approval of the Tribal-State Compact between the Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation, Montana and the State of Montana.

DATES: The compact takes effect on January 29, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, *IndianGaming@bia.gov;* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Compact raises the maximum allowed prize values on certain class III games and allows for the Tribes to offer sports betting, in addition to previously authorized games. The Compact is approved.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–01700 Filed 1–26–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/ A0A501010.999900]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact Amendment in the State of Louisiana

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the approval of the Amendment to the Tribal-State Compact for the Conduct of Class III Gaming between the Coushatta Tribe of Louisiana (Tribe) and the State of Louisiana (State).

DATES: The amendment takes effect on January 29, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, *IndianGaming@bia.gov;* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendment removes section 12 subpart (C) from the Tribe's Compact. The Amendment is approved.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–01701 Filed 1–26–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/ A0A501010.999900]

Proclaiming Certain Lands as Reservation for the Pascua Yaqui Tribe

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 1483.03 acres, more or less, as an addition to the reservation of Pascua Yaqui Tribe.

DATES: This proclamation was made on January 23, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Clark, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Box #44, Albuquerque, New Mexico 87104, *carla.clark@bia.gov,* (720) 484–3233.

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 according to 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 Pascua Yaqui Tribe Reservation for Pascua Yaqui Tribe in Pima County, Arizona.

Pascua Yaqui Tribe of Arizona, 7 Parcels, Gila and Salt River Base and Meridian Pima County, Arizona, Legal Descriptions Containing 1483.03 Acres, More or Less

665 T 2

Parcel A

Portion of the South Half of Section 24, Township 15 South, Range 12 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows: The Northeast Quarter of the Southwest Quarter; Except the Southerly 4.19 feet thereof; *Excepting* therefrom, all coal, oil, gas and other mineral deposits as reserved in the Patent recorded in Docket 1224, Page 365.

Parcel B

Portion of the South Half of Section 24, Township 15 South, Range 12 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows: The Northwest Quarter of the Southeast Quarter; *Except* the Southerly 3.52 feet; *Excepting* therefrom, all coal, oil, gas and other mineral deposits as reserved in the Patent recorded in Docket 1224, Page 365.

Parcel C

All of Government Lot Three (3), in Section 24, Township 15 South, Range 12 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

665 T 3

Lots 1 through 8, the East Half of the Northeast Quarter, the Southwest Quarter of the Northeast Quarter, the Northeast Quarter of the Southeast Quarter, the East Half of the Northwest Quarter of the Southeast Quarter, the Southwest Quarter of the Northwest Quarter of the Southeast Quarter, the North Half of the Southeast Quarter of the Southeast Quarter, and the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 14, Township 15 South, Range 12 East, Gila and Salt River Base and Meridian, Pima County Arizona.

665 T 4

Parcel A

The West Half of the Southeast Quarter and the Southwest Quarter of Section 24, Township 15 South, Range 12 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

Excepting therefrom the following parcels: The Northeast Quarter of the Southwest Quarter of said Section 24, except the Southerly 4.19 feet thereof; and the Northwest Quarter of the Southeast Quarter of said Section 24, except the Southerly 3.52 feet thereof.

Parcel B

The South Half of the Southeast Quarter of Section 23, Township 15 South, Range 12 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

665 T 5

Parcel A

Lots 2 and 4, West Half of Southeast Quarter, Section 13, Township 15 South, Range 12 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

Parcel B

The Northwest Quarter of the Northwest Quarter, the North half of the Northeast Quarter of the Northwest Quarter, and the Southwest Quarter of the Northeast Quarter of the Northwest Quarter of Section 24, Township 15 South, Range 12 East of the Gila and Salt River Base and Meridian, Pima County, Arizona.

Parcel C

Lots 2 and 45 through 76, Section 19, Township 15 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

665 T 6

Parcel A

SW ¼ of the SE ¼ of the SE ¼ of Section 14, Township 15 South, Range 12 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

Parcel B:

NW ¼ of the NW ¼ of the SE ¼ of Section 14, Township 15 South, Range 12 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

665 T 7

Parcel A

Blocks 20, 22, 23, 24, 26, 27, 28, 29 and 30, Master Block Plat of Star Valley, of Pima County, Arizona, according to the plat of record in the office of the County Recorder in Book 56 of Maps and Plats, page 55.

Parcel B

West Half of the Northeast Quarter of the Northwest Quarter and the Northwest Quarter of the Northwest Quarter of Sections 13, Township 15 South Range 12 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

665 T 8

Lot 1 of Section 19, Township 15 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

The above-described lands contain a total of 1483.03 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. 2024–01703 Filed 1–26–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CA_FRN_MO4500176895]

Filing of Plats of Survey: California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of lands described in this notice are scheduled to be officially filed in the Bureau of Land Management (BLM), California State Office, Sacramento, California, 30 calendar days from the date of this publication. The surveys, which were executed at the request of the Department of Defense, U.S. Forest Service, and Bureau of Land Management, are necessary for the management of these lands.

DATES: Unless there are protests to this action, the plats described in this notice will be filed on February 28, 2024.

ADDRESSES: You may submit written protests to the BLM California State Office, Cadastral Survey, 2800 Cottage Way, W–1623, Sacramento, CA 95825. A copy of the plats may be obtained from the BLM California State Office, Public Room, 2800 Cottage Way, W–1623, Sacramento, California 95825, upon required payment.

FOR FURTHER INFORMATION CONTACT: Joan Honda, Chief, Branch of Cadastral Survey, Bureau of Land Management, California State Office, 2800 Cottage Way, W–1623, Sacramento, California 95825; 1–916–978–4316; *jhonda@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. Honda. 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 lands surveyed are:

Humboldt Meridian, California

T. 4 N., R. 1 W., dependent resurvey, subdivision of section 26 and metes-and-bounds survey, for Group No. 1789, accepted November 30, 2022.

Mount Diablo Meridian, California

T. 10 S., R. 3 W., metes-and-bounds survey, for Group No. 1785, accepted October 20, 2022.

T. 44 N., R. 12 W., metes-and-bounds survey, for Group No. 1784, accepted March 29, 2023.

T. 2 N., R. 16 E., supplemental plat of portions of sections 28 and 33 showing new and amended lotting, accepted July 18, 2023.

T. 11 N., R. 10 E., dependent resurvey and subdivision of section 22, for Group No. 1809, accepted July 18, 2023.

T. 5 N., R. 25 E., dependent resurvey, subdivision of sections and metes-and-bounds survey, for Group No. 1718, accepted August 30, 2023.

T. 4 N., R. 25 E., dependent resurvey and subdivision of section 4, for Group No. 1718, accepted August 30, 2023.

San Bernardino Meridian, California

T. 13 N., R. 6 E., dependent resurvey and metes-and-bounds survey, for Group No. 1786, accepted November 23, 2022.

T. 7 N., R. 6 W., dependent resurvey, for Group No. 1797, accepted December 5, 2022.

T. 7 N., R. 7 W., dependent resurvey, for Group No. 1797, accepted December 5, 2022.

T. 14 N., R. 6 E., dependent and independent resurveys, completion survey and metes-and-bounds survey, for Group No. 1786, accepted March 28, 2023.

T. 14 N., R. 7 E., dependent resurvey, independent resurvey and metes-and-bounds survey, for Group No. 1786, accepted April 4, 2023.

T. 13 N., R. 6 E., amended, dependent resurvey and metes-and-bounds survey, for Group No. 1786, accepted May 16, 2023.

T. 15 N., R. 6 E., dependent resurvey and independent resurvey, for Group No. 1786, accepted May 23, 2023.

T. 15 N., R. 7 E., dependent resurvey, independent resurvey and metes-and-bounds survey, for Group No. 1786, accepted May 30, 2023.

T. 15 N., R. 8 E., dependent resurvey and metes-and-bounds survey, for Group No. 1786, accepted June 6, 2023.

T. 13 N., R. 5 E., supplemental plat showing amended areas, accepted July 18, 2023.

T. 12 N., R. 5 E., supplemental plat showing amended areas, accepted July 18, 2023.

T. 15 N., R. 7 E., supplemental plat showing new lotting, accepted August 30, 2023.

A person or party who wishes to protest one or more plats of survey must file a written notice of protest within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. Any notice of protest received after the due date will be untimely and will not be considered. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed at the same address within 30 calendar days after the notice of protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifying information in your notice of protest or statement of reasons, you should be aware that the documents you submit—including your personal identifying information—may be made publicly available at any time. While you can ask the BLM to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C., chapter 3.

Joan H. Honda,

Chief Cadastral Surveyor.

[FR Doc. 2024–01727 Filed 1–26–24; 8:45 am]

BILLING CODE 4331–15–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–24–005]

Sunshine Act Meetings

Agency Holding the Meeting: United States International Trade Commission.

TIME AND DATE: February 6, 2023 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. Nos. 701–TA–685 and 731–TA–1599–1601 and 1603 (Final)(Tin Mill Products from Canada, China, Germany, and South Korea). The Commission currently is scheduled to complete and file its determinations and views of the Commission on February 20, 2024.
5. *Outstanding action jackets:* none.

CONTACT PERSON FOR MORE INFORMATION: Sharon Bellamy, Supervisory Hearings and Information Officer, 202–205–2000.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier notification of meeting was not possible.

By order of the Commission.

Issued: January 25, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–01824 Filed 1–25–24; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1389]

Certain Computing Devices Utilizing Indexed Search Systems and Components Thereof; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 19, 2023, under section 337 of the Tariff Act of 1930, as amended, on behalf of X1 Discovery, Inc. of Pasadena, California. A supplement was filed on January 4, 2023. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain computing devices utilizing indexed search systems and components thereof by reason of the infringement of certain claims of U.S. Patent No. 8,498,977 (''the '977 patent'') and U.S. Patent No. 8,856,093 (''the '093 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, The Office of the Secretary, Dockets Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2023).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 23, 2024, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1–2, 5, 7–11, 13, 15–16, 19 and 20 of the '977 patent and claims 1–7 and 11–19 of the '093 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''desktop and laptop computers that run software for computer indexing and searching'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

X1 Discovery, Inc., 251 S Lake Avenue, Suite 800, Pasadena, CA 91101

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

ASUSTeK Computer Inc., No. 15, Li-Te Rd., Taipei City, 11259 Taiwan

ASUS Computer International, 48720 Kato Rd., Fremont, CA 94538

Acer Inc., Taipei, 1F, 88, Sec. 1, Xintai 5th Rd., Xizhi, Taiwan

Acer America Corporation, 1730 N First St., Suite 400, San Jose, CA 95112

Dell Technologies Inc., 1 Dell Way, Round Rock, TX 78682–7000

Dell Products, 1 Dell Way, Round Rock, TX, 78682–7000

Dell (Chengdu) Company Limited, No. 800, Tianqin Road, High-tech Zone Chengdu,, Sichuan, 610000 China

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations is not participating as a party to this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: January 23, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–01655 Filed 1–26–24; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Criminal Rules; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory Committee on Criminal Rules; notice of open meeting.

SUMMARY: The Advisory Committee on Criminal Rules will hold a meeting in a hybrid format with remote attendance options on April 18, 2024 in Washington, DC. The meeting is open to the public for observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *https://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books*.

DATES: April 18, 2024.

FOR FURTHER INFORMATION CONTACT: H. Thomas Byron III, Esq., Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov*.

(Authority: 28 U.S.C. 2073.)

Dated: January 23, 2024.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2024–01608 Filed 1–26–24; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Evidence Rules; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory Committee on Evidence Rules; notice of open meeting.

SUMMARY: The Advisory Committee on Evidence Rules will hold a meeting in a hybrid format with remote attendance options on April 19, 2024 in Washington, DC. The meeting is open to the public for observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *https://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books*.

DATES: April 19, 2024.

FOR FURTHER INFORMATION CONTACT: H. Thomas Byron III, Esq., Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov*.

(Authority: 28 U.S.C. 2073.)

Dated: January 23, 2024.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2024–01607 Filed 1–26–24; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for Pardon After Completion of Sentence

AGENCY: Office of the Pardon Attorney, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Office of the Pardon Attorney, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** on November 15, 2023, allowing a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until February 28, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Kira Gillespie, Deputy Pardon Attorney, *USPardon.Attorney@usdoj.gov*; 202–616–6070.

SUPPLEMENTARY INFORMATION: 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 the title of the information collection. This information collection request may be viewed at *www.reginfo.gov*. Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ 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 DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* New Collection.

2. *Title of the Form/Collection:* Application for Pardon After Completion of Sentence.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Office of the Pardon Attorney.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected Public: Individuals or households.

Abstract: The principal purpose for collecting this information is to enable the Office of the Pardon Attorney to process applicants' requests for pardon after completion of sentence. The information is necessary to verify applicants' identities, conduct investigation of the applicants' backgrounds, criminal records, and conduct since their conviction, and to provide notice to the Federal Bureau of Investigation, U.S. Attorneys' Offices, U.S. Probation Offices, and federal courts in the event of grants of executive clemency.

5. *Obligation to Respond:* Voluntary.

6. *Total Estimated Number of Respondents:* 1,000 respondents annually.

7. *Estimated Time per Respondent:* 180 minutes per respondent.

8. *Frequency:* Once a year.

9. *Total Estimated Annual Time Burden:* 3,000 hours.

10. *Total Estimated Annual Other Costs Burden:* $0.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218 Washington, DC 20530.

Dated: January 23, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–01661 Filed 1–26–24; 8:45 am]

BILLING CODE 4410–29–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0092]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement With Change of a Previously Approved Collection; September 11th Victim Compensation Fund Claimant Eligibility and Compensation Form

AGENCY: Civil Division, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Civil Division, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until March 29, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kimberly Brown, Director of Operations, September 11th Victim Compensation Fund, 1100 L Street NW, Washington, DC 20531 (phone: 1–855–885–1555; email: *Kimberly.C.Brown@usdoj.gov*).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: The September 11th Victim Compensation Fund (VCF) provides compensation to any individual (or a personal representative of a deceased individual) who suffered physical harm or was killed as a result of the terrorist-related aircraft crashes of September 11, 2001, or the debris removal efforts that took place in the immediate aftermath of those crashes. Eligibility and Compensation information are collected through the claim form based on the requirements of the VCF's authorizing statutes. The original September 11th Victim Compensation Fund operated from 2001–2004. The James Zadroga 9/11 Health and Compensation Act of 2010 (Zadroga Act) was signed in 2011. Title II of the Zadroga Act reactivated the VCF, which opened in October 2011 and was initially authorized to operate for five years. In December 2015, the Zadroga Act was reauthorized for five years, until December 18, 2020. The signing of the ''Never Forget the Heroes, James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act'' in July 2019, fully funded the VCF to pay all eligible claims and extended the claim filing deadline to October 1, 2090. The VCF will use the information collected through the Eligibility and Compensation Form to determine a claimant's eligibility for an award, and if so, the amount of compensation the claimant will be awarded. The Eligibility section seeks the information required by the Zadroga Act to determine whether a claimant is eligible for the Fund, including information related to: participation in lawsuits related to September 11, 2001; presence at a 9/11 crash site between September 11, 2001 and May 30, 2002; and physical harm suffered as a result of the air crashes and/or debris removal. The Compensation section seeks the information required by the Zadroga Act to determine the amount of compensation for which the claimant is eligible. Specifically, the section seeks information regarding the out-of-pocket losses (including medical expenses) incurred by the claimant that are attributable to the 9/11 air crashes or debris removal; the claimant's pain and suffering, loss of earnings and/or replacement services that are attributable to the 9/11 air crashes or debris removal; and any collateral source payments (such as insurance payments) that the claimant received as a result of the terrorist–related aircraft crashes of September 11, 2001 or debris removal efforts.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement with change of a previously approved collection.

2. *The Title of the Form/Collection:* September 11th Victim Compensation Fund Claim Form.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* OMB No. 1105–0092/September 11th Victim Compensation Fund, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Any individual (or a personal representative of a deceased individual) who suffered physical harm or was killed as a result of the terrorist-related aircraft crashes of September 11, 2001, or the debris removal efforts that took place in the immediate aftermath of those crashes. The obligation to respond is required to receive an award from the September 11th Victim Compensation Fund.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 21,000 respondents will complete the form (total estimate for the time period June 2024 through June 2027) in an average of 8 hours.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 168,000 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hours)	Total annual burden (hours)
September 11th Victim Compensation Fund Claim Form ..	21,000	1/annually	21,000	8	168,000

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: January 23, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–01622 Filed 1–26–24; 8:45 am]

BILLING CODE 4410–12–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before February 28, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The State Quality Service Plan (SQSP) is one of several implementing documents for UI PERFORMS, that allows for an exchange of information between the Federal and State partners to enhance the ability of the program to reflect the joint commitment to continuous improvement and client centered services. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 5, 2023 (88 FR 36617).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines.

OMB Control Number: 1205–0132.

Affected Public: State, local and Tribal governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 1,484.

Total Estimated Annual Time Burden: 6,254 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–01663 Filed 1–26–24; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Improving Investment Advice for Workers & Retirees Prohibited Transaction Exemption

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before February 28, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The proposed exemption would allow investment advice fiduciaries under both ERISA and the Code to receive compensation, including as a result of advice to roll over assets from a Plan to an IRA, and engage in principal transactions, that would otherwise violate the prohibited transaction provisions of ERISA and the Code. The exemption would apply to registered investment advisers, broker-dealers, banks, insurance companies, and their employees, agents, and representatives that are investment advice fiduciaries. The exemption would include protective conditions designed to safeguard the interests of Plans, participants and beneficiaries, and IRA owners. The new class exemption would affect participants and beneficiaries of Plans, IRA owners, and fiduciaries with respect to such Plans and IRAs. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 25, 2023 (88 FR 58312).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Improving Investment Advice for Workers & Retirees Prohibited Transaction Exemption.

OMB Control Number: 1210–0163.

Affected Public: Individuals or households.

Total Estimated Number of Respondents: 18,259.

Total Estimated Number of Responses: 3,259,765.

Total Estimated Annual Time Burden: 994,301 hours.

Total Estimated Annual Other Costs Burden: $104,639.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–01662 Filed 1–26–24; 8:45 am]

BILLING CODE 4510–29–P

OFFICE OF MANAGEMENT AND BUDGET

Notice; 2023 Statutory Pay-As-You-Go Act Annual Report

AGENCY: Office of Management and Budget (OMB).

ACTION: Notice.

SUMMARY: This report is being published as required by the Statutory Pay-As-You-Go (PAYGO) Act of 2010. The Act requires that OMB issue an annual report and a sequestration order, if necessary.

FOR FURTHER INFORMATION CONTACT: Erin O'Brien. 202–395–3106.

SUPPLEMENTARY INFORMATION: This report can be found at *https://www.whitehouse.gov/omb/paygo/.*

Authority: 2 U.S.C. 934.

Kelly A. Kinneen,

Assistant Director for Budget.

This Report is being published pursuant to section 5 of the Statutory Pay-As-You-Go (PAYGO) Act of 2010, Public Law 111–139, 124 Stat. 8, 2 U.S.C. 934, which requires that OMB issue an annual PAYGO report, including a sequestration order if necessary, no later than 14 working days after the end of a congressional session.

This Report describes the budgetary effects of all PAYGO legislation enacted during the first session of the 118th Congress and presents the 5-year and 10-year PAYGO scorecards maintained by OMB.[1] Because neither the 5-year nor 10-year scorecard shows a debit for the budget year, which for purposes of this Report is fiscal year 2024,[2] a sequestration order under subsection 5(b) of the PAYGO Act, 2 U.S.C 934(b) is not required.

The budget year balance on each of the PAYGO scorecards is zero because the Consolidated Appropriations Act, 2023 (Pub. L. 117–328) shifted the debits on both scorecards from fiscal year 2024 to fiscal year 2025. The change directed by Public Law 117–328 is discussed in more detail in section IV of this report.

During the first session of the 118th Congress, no laws with PAYGO effects were enacted with emergency requirements under section 4(g) of the PAYGO Act, 2 U.S.C. 933(g), though as discussed later in this report, one law was enacted that rescinded funding that received an emergency designation

[1] This report encompasses laws enacted between January 3, 2023 at noon and January 3, 2024 at 11:55 a.m. (Pub. L. 117–329 through Pub. L. 118–34).

[2] References to years on the PAYGO scorecards are to fiscal years.

when it was enacted. Two laws had estimated budgetary effects on direct spending and/or revenues that were excluded from the calculations of the PAYGO scorecards due to provisions excluding part of the law from section 4(d) of the PAYGO Act, 2 U.S.C. 933(d).

I. PAYGO Legislation With Budgetary Effects

PAYGO legislation is authorizing legislation that affects direct spending or revenues, and appropriations legislation that affects direct spending in the years after the budget year or affects revenues in any year.[3] For a more complete description of the Statutory PAYGO Act, see Chapter 4, ''Budget Process,'' of the *Analytical Perspectives* volume of the 2024 President's Budget, found on the website of the U.S. Government Printing Office (*https://www.govinfo.gov/app/collection/budget/2024/BUDGET-2024-PER*).

The PAYGO Act's requirement of deficit neutrality is based on two scorecards that tally the cumulative budgetary effects of PAYGO legislation as averaged over rolling 5- and 10-year periods starting with the budget year. The 5-year and 10-year PAYGO scorecards for each congressional session begin with the balances of costs or savings carried over from previous sessions and then tally the costs or savings of PAYGO laws enacted in the most recent session.

The 5-year PAYGO scorecard for the first session of the 118th Congress began with balances of $443,138 million in 2024, $1,256,908 million in 2025, $443,138 million in 2026, and $72,505 million in 2027. The 10-year PAYGO scorecard for the first session of the 118th Congress began with balances of $242,729 million in 2024, $672,477 million in 2025, $242,729 million per year for 2026–2031, and $55,709 million for 2032.

Laws enacted during the first session of the 118th Congress created balances on the 5- and 10-year scorecards of −$1,188 million and −$891 million in each year, respectively. Public Law 117–328 shifted the fiscal year 2024 debits on both scorecards to fiscal year 2025. Therefore, the 2024 balance on both the 5- and 10-year scorecards is zero. There are balances on the 5-year scorecard of $1,697,668 million in 2025, $441,949 million in 2026, $71,317 million in 2027, and −$1,188 million in 2028. There are balances on the 10-year scorecard of $913,423 million in 2025, $241,837 million in per year for 2026–2031, $54,818 million in 2032, and −$891 million in 2033.

In the first session of the 118th Congress, 16 laws were enacted that were determined to constitute PAYGO legislation. Of the 16 enacted PAYGO laws, 5 laws were estimated to have PAYGO budgetary effects (costs or savings) in excess of $500,000 over one or both of the 5-year or 10-year PAYGO windows. These were:

- Public Law 117–333, Veterans Auto and Education Improvement Act of 2022;
- Public Law 118–5, Fiscal Responsibility Act of 2023;
- Public Law 118–19, An Act to amend title 38, United States Code, to extend and modify certain authorities and requirements relating to the Department of Veterans Affairs, and for other purposes;
- Public Law 118–27, 5G Spectrum Authority Licensing Enforcement Act; and
- Public Law 118–31, National Defense Authorization Act for Fiscal Year 2024.

In addition to the laws identified above, 11 laws enacted in this session were estimated to have negligible budgetary effects on the PAYGO scorecards—costs or savings of less than $500,000 over both the 5-year and 10-year PAYGO windows.

II. Budgetary Effects Excluded From the Scorecard Balances

A. Emergency Designations

No laws were enacted in the first session of the 118th Congress with an emergency designation under the Statutory PAYGO Act. However, scorekeeping guidelines adopted by the Office of Management and Budget, the Congressional Budget Office, and the Congressional budget committees preclude scoring savings for the subsequent rescission of funding that was designated as emergency spending when enacted. Although the provisions rescinding the emergency funding are reported on the PAYGO scorecards maintained by OMB, the savings associated with the rescissions are not included in the balances on the scorecards that are used to determine the need for a sequestration. One law was enacted during the first session of the 118th Congress that rescinded funding that was designated as emergency when it was enacted:

- Public Law 118–5, Fiscal Responsibility Act of 2023.

B. Statutory Provisions Excluding Legislation From the Scorecards

Two laws enacted in the first session of the 118th Congress had estimated budgetary effects on direct spending and revenues that were excluded from the calculations for the PAYGO scorecards due to provisions in law excluding part of the law from section 4(d) of the PAYGO Act.

Budgetary effects in two laws were excluded from the scorecards:

- Public Law 118–15, Continuing Appropriations Act, 2024 and Other Extensions Act; and
- Public Law 118–22, Further Continuing Appropriations and Other Extensions Act, 2024.

III. PAYGO Scorecards

STATUTORY PAY-AS-YOU-GO SCORECARDS

[In millions of dollars; negative amounts portray decreases in deficits]

	2024	2025	2026	2027	2028					
First Session of the 118th Congress	−1,188	−1,188	−1,188	−1,188	−1,188					
Balances from Previous Sessions	443,138	1,256,908	443,138	72,505	0					
Change in balances pursuant to Sec. 1001(d)(2) of Division O of Public Law 117–328	−441,949	441,949	0	0	0					
5-year PAYGO Scorecard	0	1,697,668	441,949	71,317	−1,188					
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
First Session of the 118th Congress	−891	−891	−891	−891	−891	−891	−891	−891	−891	−891

[3] Provisions in appropriations acts that affect direct spending in the years after the budget year (also known as ''outyears'') or affect revenues in any year are considered to be budgetary effects for the purposes of the PAYGO scorecards except if the provisions produce outlay changes that net to zero over the current year, budget year, and the four subsequent years. As specified in section 3 of the PAYGO Act, off-budget effects are not counted as budgetary effects. Off-budget effects refer to effects on the Social Security trust funds (Old-Age and Survivors Insurance and Disability Insurance) and the Postal Service.

STATUTORY PAY-AS-YOU-GO SCORECARDS—Continued
[In millions of dollars; negative amounts portray decreases in deficits]

	2024	2025	2026	2027	2028					
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
Balances from Previous Sessions	242,729	672,477	242,729	242,729	242,729	242,729	242,729	242,729	55,709	0
Change in balances pursuant to Sec. 1001(d)(2) of Division O of Public Law 117–328	−241,837	241,837	0	0	0	0	0	0	0	0
10-year PAYGO Scorecard	0	913,423	241,837	241,837	241,837	241,837	241,837	241,837	54,818	−891

IV. Legislative Revisions to the PAYGO Scorecards

Section 1001(d)(2) of division O of Public Law 117–328, the Consolidated Omnibus Appropriations Act, 2023, states, ''For the purposes of the annual report issued pursuant to section 5 of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 934) after adjournment of the first session of the 118th Congress, and for determining whether a sequestration order is necessary under such section, the debit for the budget year on the 5-year scorecard, if any, and the 10-year scorecard, if any, shall be deducted from such scorecards in 2024 and added to such scorecards in 2025.'' Accordingly, both the 5- and 10-year scorecards deduct the debit from 2024 and add that debit to 2025.

V. Sequestration Order

As shown on the scorecards, the budgetary effects of PAYGO legislation enacted in the first session of the 118th Congress, combined with section 1001(d)(2) of division O of Public Law 117–328, resulted in no costs on either the 5-year or the 10-year scorecard in the budget year, which is 2024 for the purposes of this Report. Because the costs for the budget year, as shown on the scorecards, were set to zero for the budget year, there is no ''debit'' on either scorecard under section 3 of the PAYGO Act, 2 U.S.C. 932, and a sequestration order is not required.[4]

[FR Doc. 2024–01706 Filed 1–26–24; 8:45 am]

BILLING CODE 3110–01–P

[4] Sequestration reductions pursuant to the Balanced Budget and Deficit Control Act (BBEDCA) Section 251A for 2024 were calculated and ordered in a separate report and are not affected by this determination. See: *https://www.whitehouse.gov/wp-content/uploads/2023/03/BBEDCA_Sequestration_Report_and_Letter_3-13-2024.pdf.*

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–23–0016; NARA–2024–012]

Records Schedules; Notice of Withdrawal

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice; withdrawal.

SUMMARY: On January 23, 2024, the National Archives and Records Administration (NARA) published a **Federal Register** notice to allow public comment on the records schedules listed at the end of this notice. The notice is hereby withdrawn.

DATES: The document published at 89 FR 4340 on January 23, 2024, is withdrawn as of January 29, 2024.

FOR FURTHER INFORMATION CONTACT: Kimberly Richardson, Strategy and Performance Division, by email at *regulation_comments@nara.gov.* For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov* or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We publish notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

When the records schedule notice was published on January 23, 2024, at 89 FR 4340, the docket was assigned an incorrect number and the link to the URL for the regulations.gov docket for the schedules was incorrect. Due to these clerical errors, the notice will be withdrawn and the schedules will be reposted as soon as possible in a new notice, allowing the full 45-day comment period for the public to submit comments.

Schedules Withdrawn

1. Department of Defense, Defense Contract Audit Agency, Records related to Security and Intelligence (DAA–0372–2022–0001).
2. Department of Health and Human Services, Office of Medicare Hearings and Appeals, Administrative Law Judge and Attorneys Files (DAA–0468–2023–0003).
3. Department of Homeland Security, Federal Emergency Management Agency, Mission Training Records (DAA–0311–2022–0001).
4. Department of Homeland Security, U.S. Citizenship and Immigration Services, Teacher Training for Citizenship Education Records (DAA–0566–2022–0002).
5. Department of Homeland Security, U.S. Customs and Border Protection, Promissory Notes (DAA–0568–2023–0003).
6. Department of the Navy, Agency-Wide, Telecommunications and Information Technology (DAA–NU–2019–0009).
7. Central Intelligence Agency, Agency-wide, Mission Related Data (DAA–0263–2018–0001).
8. National Security Agency, Agency-wide, Transaction Monitoring (DAA–0457–2024–0001).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2024–01660 Filed 1–26–24; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Proposed Collection; Request for Comments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of submission to the Office of Management and Budget.

SUMMARY: As required by the Paperwork Reduction Act, the National Credit Union Administration (NCUA) is submitting the new, proposed

information collection to the Office of Management and Budget (OMB): NCUA Speaker and Chairman Request Forms. This new information collection allows NCUA to coordinate and collaborate with credit unions, other federal agencies, and consumers to provide a safe and sound credit union system. As part of its collaboration efforts, the NCUA receives requests annually for NCUA leadership and staff to participate in speaking engagements at various events. This digital collection of information is necessary to ensure an efficient and timely process to schedule outreach and engagement with NCUA stakeholders.

DATES: Written comments should be received on or before February 28, 2024 to be assured consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Rena Y. Kim at (703) 548–2398, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–NEW.

Title: NCUA Speaker and Chairman Request Forms.

Type of Review: New collection.

Abstract: The Federal Credit Union (FCU) Act of 1970 (12 U.S.C. 1752) established the National Credit Union Administration (NCUA) as an independent agency, in control of regulating and supervising federal credit unions. This mission requires coordination and collaboration with credit unions, other federal agencies, and consumers to provide a safe and sound credit union system. As part of its collaboration efforts, the NCUA receives requests annually for NCUA leadership and staff to participate in speaking engagements at various events. This digital collection of information is necessary to ensure an efficient and timely process to schedule outreach and engagement with NCUA stakeholders. As a result of the requests received for speaking engagements, the NCUA has developed two forms, (1) the Speaker Request Form and, (2) the Chairman Request Form; and is requesting approval from the Office of Management and Budget (OMB) for a new information collection. The forms collect information regarding the requested speaking engagement to include, the host organization, the speaking topic, agenda, and additional event details. The information is used to determine if accepting the request will further NCUA's mission.

NCUA published a 60-day notice on August 28, 2023 requesting comments under 88 FR 58621 and one comment was received. The commenter made four requests.

(1) To streamline request forms including NCUA reevaluating the forms to ensure all fields are relevant. The NCUA reevaluated the request forms, and we think that NCUA is collecting necessary information. Because NCUA Board members and Senior Leaders have limited time to speak to external entities, NCUA needs comprehensive information on each request in order to evaluate and prioritize the events at which each NCUA official will speak.

(2) The commenter asked that NCUA detail both in a written communication to credit unions and on its website exactly what is required to request a meeting with agency staff. NCUA considered this request. We believe that our website is fairly clear on what is required to request an NCUA Board and/or Senior Leader to speak. When ''NCUA speaker requests'' was Googled, our forms appeared in the search result. As the commenter notes, the Chairman Speaker Request Form includes helpful information at the top of the form regarding meeting requests, specifically indicating which fields are required to be completed by a requester. We also understand that trade unions have spread the word about using NCUA's forms.

(3) Provide status updates: The commenter indicated that it ''would be very helpful if the generic response regarding receipt of a request included contact information for a dedicated staff member who is responsible for shepherding such requests through the approval process. Additionally, periodic updates regarding the status of a request would be beneficial, particularly since many credit unions and credit union associations often plan in-person trips to DC that coincide with such meetings.'' The NCUA agrees and will provide a point of contact from an appropriate NCUA office based on the type of request.

(4) To share aggregate information: The commenter indicated that it would be helpful to have general (aggregate) information regarding the number of meeting requests and meetings granted, including whether at the Board or staff level—and possibly even the department or division in which the staff member works as an addition to the NCUA's Annual Report. To the extent possible, NCUA attempts to honor as many speaking requests as the NCUA Chairman, the Board Members and other Senior leaders are able to accommodate based upon each of their demanding schedules.

Estimated No. of Respondents: 175.

Estimated No. of Responses per Respondent: 1.

Estimated Total Annual Responses: 175.

Estimated Burden Hours per Response: 0.25.

Estimated Total Annual Burden Hours: 43.75.

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 execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By the National Credit Union Administration Board.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2024–01659 Filed 1–26–24; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Andrew Titmus, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 603–292–4479; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On August 8, 2023, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on the following dates:

1. Ron Naveen, Permit No. 2024–001, September 6, 2023
2. Heather Lynch, Permit No. 2024–002, September 6, 2023

On August 9, 2023, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on the following dates:

1. Chris Linder, Permit No. 2024–003, September 8, 2023
2. Paul Ponganis, Permit No. 2024–004, September 8, 2023
3. Rachael Herman, Permit No. 2024–005, September 8, 2023

On August 14, 2023, the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on the following date:

1. Megan Cimino, Permit No. 2024–006, September 13, 2023

On August 25, 2023, the National Science Foundation published a notice in the **Federal Register** of a permit applications received. The permit was issued on the following dates:

1. Scenic, Permit No. 2022–013, September 25, 2023

On September 11, 2023, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on the following dates:

1. Logan Pallin, Permit No. 2024–007, October 11, 2023
2. Heather Lynch, Permit No. 2024–008, October 11, 2023

On September 15, 2023, the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on the following date:

1. Poseidon, Permit No. 2024–009, October 16, 2023

On September 20, 2023, the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on the following date:

1. Ron Naveen, Permit No. 2024–010, October 20, 2023

On September 26, 2023 the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on the following date:

1. Grant Ballard, Permit No. 2021–004, October 26, 2023

On October 2, 2023, the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on the following date:

1. Alia Khan, Permit No. 2024–011, October 26, 2023

On October 10, 2023, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on the following dates:

1. Seabourn, Permit No. 2024–012, November 9, 2023
2. Sea Shepherd, Permit No. 2024–013, November 9, 2023

On November 7, 2023, the National Science Foundation published a notice in the **Federal Register** of permit application received. The permit was issued on the following date:

1. Chris Eckstrom, Permit No. 2024–014, December 7, 2023

On November, 14, 2023, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on the following dates:

1. Sarah Ruth, Permit No. 2024–015, December 14, 2023
2. Princess, Permit No. 2024–016, December 14, 2023
3. Lindblad, Permit No. 2024–017, December 14, 2023

On December 12, 2023, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permit was issued on the following date:

1. Sarah Kienle, Permit No. 2024–018, January 11, 2024

On December 14, 2023, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on the following dates:

1. EYOS, Permit No. 2024–019, January 16, 2024
2. The World, Permit No. 2024–020, January 16, 2024

Kimiko S. Bowens-Knox,

Program Analyst, Office of Polar Programs.

[FR Doc. 2024–01712 Filed 1–26–24; 8:45 am]

BILLING CODE 7555–01–P

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: Thursday, February 8, 2024, at 9:00 a.m.; Thursday, February 8, 2024, at 4:00 p.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza SW, in the Benjamin Franklin Room.

STATUS: Thursday, February 8, 2024, at 9:00 a.m.—Closed. Thursday, February 8, 2024, at 4:00 p.m.—Open.

MATTERS TO BE CONSIDERED:

Meeting of the Board of Governors

Thursday, February 8, 2023, at 9:00 a.m. (Closed)

1. Strategic Issues.
2. Financial and Operational Matters.
3. Executive Session.
4. Administrative Items.

Thursday, February 8, 2023, at 4:00 p.m. (Open)

1. Remarks of the Chairman of the Board of Governors.
2. Remarks of the Postmaster General and CEO.
3. Approval of the Minutes.
4. Committee Reports.
5. Quarterly Financial Report.
6. Quarterly Service Performance Report.
7. Approval of Tentative Agenda for May 9 Meeting.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Secretary of the Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Secretary.

[FR Doc. 2024–01810 Filed 1–25–24; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99413; File No. SR–CboeBYX–2024–003]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 11.9(c)(6) and Rule 11.13(a)(4)(D) To Permit the Use of BYX Post Only Orders at Prices Below $1.00

January 23, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 8, 2024, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') proposes to amend Rule 11.9(c)(6) and Rule 11.13(a)(4)(D) to permit the use of BYX Post Only Orders at prices below $1.00. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), 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

Trading in sub-dollar securities both on- and off-exchange has grown significantly since early 2019. An analysis of SIP [3] data by the Exchange found that sub-dollar average daily volume has increased over 300% as compared to volumes in the first quarter of 2019.[4] During this period, on-exchange average daily volume in sub-dollar securities grew from 442 million shares per day to 1.8 billion shares per day.[5] A separate analysis of SIP and FINRA Trade Reporting Facility (''TRF'') [6] data indicated that exchanges represented approximately 39.8% market share in sub-dollar securities, with a total of 1,638 securities trading below $1.00.[7] As an exchange group, Cboe had approximately 13.3% of market share in sub-dollar securities in the first quarter of 2023.[8] Additionally, an analysis of internal data showed that the Exchange's affiliate exchange, EDGX Exchange, Inc. (''EDGX''), has seen retail sub-dollar average daily volume grow from approximately $40 million during the first quarter of 2022 to over $100 million during the third quarter of 2023.

As a result of the growth in sub-dollar trading, the Exchange proposes to amend Rule 11.9(c)(6) in order to permit a BYX Post Only Order to post to the BYX Book [9] at prices below $1.00. Currently, the BYX fee schedule does not assess a fee or provide a rebate for adding liquidity in securities priced below $1.00 and charges a fee of 0.10% of the total dollar value of the transaction for removing liquidity in securities priced below $1.00.[10] While the Exchange's economic best interest calculation [11] will remain the same as is currently in-place, the impact of this proposal will allow certain BYX Post Only Orders in securities priced below $1.00 to post to the BYX Book for Users who receive an economic benefit.[12]

As defined in Rule 11.9(c)(6), a BYX Post Only Order is ''[a]n order that is to be ranked and executed on the Exchange pursuant to Rule 11.12 and Rule 11.13(a)(4) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the BYX Book. . .''. Accordingly, a BYX Post Only Order does not remove liquidity, but rather posts to the BYX Book to the extent permissible. Additionally, the Exchange proposes to amend Rule 11.13(a)(4)(D) to describe the manner in which bids or offers priced below $1.00 per share are executed against orders resting on the BYX Book. The Exchange believes the proposed changes will provide Users [13] with an additional order type to utilize when submitting order flow to the Exchange in securities priced below $1.00, thereby contributing to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities on the Exchange. While the Exchange believes that expanding the use of the BYX Post Only Order to securities priced below $1.00 will contribute to a deeper and more liquid market, the Exchange does not anticipate any capacity issues as a result of its proposal.

In order to permit a BYX Post Only Order to post to the BYX Book at prices below $1.00, the Exchange proposes to amend Rule 11.9(c)(6) to remove language that states that a BYX Post Only Order ''will remove contra-side liquidity from the BYX Book if the order is an order to buy or sell a security priced below $1.00 . . .''. Currently, BYX Post Only Orders priced below $1.00 are automatically treated as orders that remove liquidity, while BYX Post Only Orders priced at or above $1.00 will only remove liquidity if the value of the overall execution (taking into account all applicable fees and rebates) make it economically beneficial for the order to remove liquidity. A BYX Post Only Order priced at or above $1.00 will continue to remove contra-side liquidity if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the BYX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. BYX Post Only Orders priced below $1.00 will be treated in the same manner as BYX Post Only Orders priced at or above $1.00 in that BYX Post Only Orders priced below $1.00 will only remove liquidity if the value of the overall execution (taking into account all applicable fees and rebates) make it economically beneficial for the order to remove liquidity. The Exchange has received User feedback requesting the ability to utilize BYX Post Only

[3] The ''SIP'' refers to the centralized securities information processors.

[4] *See* ''How Subdollar Securities are Trading Now'' (March 16, 2023). Available at *https://www.cboe.com/insights/posts/how-subdollar-securities-are-trading-now/.*

[5] *Id.*

[6] Trade Reporting Facilities are facilities through which FINRA members report off-exchange transactions in NMS stocks, as defined in SEC Rule 600(b)(47) of Regulation NMS. *See* Securities Exchange Act Release No. 96494 (December 14, 2022), 87 FR 80266 (December 29, 2022) (''Tick Size Proposal'') at 80315.

[7] *Supra* note 4.

[8] *Id.*

[9] *See* Rule 1.5(e). The BYX Book means the System's electronic file of orders.

[10] *See* BYX Equities Fee Schedule, Standard Rates. In securities priced at or above $1.00, BYX pays rebates for Users that remove liquidity and assesses fees for Users that add liquidity. Under the current fee schedule for securities priced at or above $1.00 there is no economic benefit to utilize the BYX Post Only Order due to the Exchange's economic best interest calculation, and as such, BYX Post Only Orders are eligible to remove liquidity when priced at or above $1.00.

[11] The Exchange's economic best interest calculation determines whether the value of price improvement associated with a BYX Post Only Order equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the order posted to the BYX Book and subsequently provided liquidity. The determination of whether a BYX Post Only Order will be allowed to post to the BYX Book or be eligible to remove liquidity is based on the current fee schedule, the execution price, and the amount of price improvement received.

[12] Based on the current fee schedule, the proposal will not modify the functionality of BYX Post Only Orders in securities priced at or above $1.00 as these orders will remain eligible to remove liquidity upon entry under the current economic best interest calculation.

[13] *See* Rule 1.5(cc). The term ''User'' shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

Orders in securities priced below $1.00 in order to allow Users to operate a single strategy for securities at all prices even though the execution cost economics for securities priced below $1.00 may only provide a slight economic benefit for Users who choose to utilize BYX Post Only Orders in securities priced below $1.00.

In addition to the proposed amendment to Rule 11.9(c)(6), the Exchange proposes an amendment to its order handling procedures in order to permit Non-Displayed Orders [14] and orders subject to display-price sliding (collectively, ''Resting Orders'') which are not executable at their most aggressive price due to the presence of a contra-side BYX Post Only Order to be executed at one minimum price variation less aggressive than the order's most aggressive price.[15] Currently, similar order handling behavior applies only to securities priced at or above $1.00.[16] When proposed in 2011, the Resting Order Execution Filing stated that the order handling functionality was not necessary for securities priced below $1.00 as the Exchange did not have the ability to quote in sub-pennies and the system limitations that market participants may encounter if attempting to execute in increments finer than $0.0001.[17] Given the rise in sub-dollar trading discussed above, the Exchange now proposes to expand the order handling functionality introduced by the Resting Order Execution Filing to securities priced below $1.00.

Rule 11.13(a)(4)(D) states that for securities priced above $1.00, incoming orders that are market orders or limit orders priced more aggressively than a displayed order on the same side of the market, the Exchange will execute the incoming order at, in the case of an incoming sell order, one-half minimum price variation less than the price of the displayed order, and, in the case of an incoming buy order, at one-half minimum price variation more than the price of the displayed order. The Exchange proposes that for securities priced below $1.00, incoming orders that are market orders or limit orders priced more aggressively than a displayed order on the same side of the market, the Exchange will execute the incoming order at, in the case of an incoming sell order, one minimum price variation less than the price of the displayed order, and, in the case of an incoming buy order, at one minimum price variation more than the price of the displayed order. The different treatment of securities priced below $1.00 from securities priced at or above $1.00 arises from limitations within the System,[18] which cannot process executions out to five decimal places.

Under the Exchange's current fee schedule, there *may* be an economic benefit for Users to submit a BYX Post Only Order in securities priced below $1.00, which represents a change to how the System will process BYX Post Only Orders in securities priced below $1.00. In order to demonstrate the proposed order handling behavior for securities priced below $1.00, the Exchange has included the following examples:

Example 1

- Assume the NBB is $0.50 and the NBO is $0.53. There is no resting interest on the BYX Book.

	Bid		Offer
National best	$0.50	×	$0.53

- Next, assume the Exchange received an incoming displayed offer (Order 1) to sell 100 shares at $0.50. Order 1 is eligible for display-price sliding pursuant to Rule 11.9(g).[19] Pursuant to Rule 11.9(g), Order 1 is temporarily slid to a displayed price of $0.5001 as it locked the NBB upon entry.[20] Even though Order 1 is now temporarily displayed at a price of $0.5001, Order 1's ranked price remains $0.50, as $0.50 is the locking price.[21]

- Next, assume the Exchange received an incoming BYX Post Only Order bid (Order 2) to buy 100 shares at $0.50. The Exchange's economic best interest calculation determined that it was more beneficial for Order 2 to post to the BYX Book and display at a price of $0.50. BYX Post Only Orders are permitted to post and be displayed opposite the ranked price of orders subject to display-price sliding.[22] The result is depicted as follows:

	Bid		Offer
National best	$0.50	×	$0.5001
BYX best	$0.50	×	$0.5001

- The Exchange then receives an IOC [23] order to buy (Order 3) 100 shares at $0.5001. Order 3 executes against Order 1 in its entirety at a price of $0.5001.

Consistent with the Exchange's rule regarding priority of orders, Rule 11.12, a Non-Displayed order cannot be executed by the Exchange pursuant to Rule 11.13 when such order would be executed at the locking price. Specifically, if an incoming, marketable order was allowed to execute against the resting, non-displayed portion of Order 1 at the locking price, such order would receive a priority advantage over Order 2, a resting, displayed order at the locking price. The Resting Order Execution Filing granted the Exchange the ability to execute Non-Displayed Orders and orders subject to NMS Price Sliding [24] priced at or above $1.00 at one-half minimum variation (more) less than the locking price in the event that a bid (offer) submitted to the Exchange opposite such Resting Order is a market order or limit order priced more aggressive than the locking price.

In the example above, Order 1, ranked at $0.50 upon entry, was slid to a displayed price of $0.5001 pursuant to

[14] *See* Rule 11.9(c)(11). A ''Non-Displayed Order'' is a market or limit order that is not displayed on the Exchange.

[15] *See* Securities Exchange Act Release No. 64753 (June 27, 2011), 76 FR 38714 (July 1, 2011), SR–BYX–2011–009 (''Resting Order Execution Filing''). The Resting Order Execution Filing introduced an order handling change for certain Non-Displayed Orders and orders subject to display-price sliding that are not executable at prices equal to displayed orders on the opposite side of the market (the ''locking price''). The Resting Order Execution Filing permits Resting Orders priced at or above $1.00 to be executed at one-half minimum price variation less aggressive than the locking price (for bids) and one-half minimum price variation more aggressive than the locking price (for offers), under certain circumstances.

[16] *See* Rule 11.13(a)(4)(D).

[17] *See* Resting Order Execution Filing footnote 8.

[18] *See* Rule 1.5(aa). The term ''System'' shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranked, executions and, when applicable, routing away.

[19] *See* Rule 11.9(g)(1)(A). An order eligible for display by the Exchange that, at the time of entry, would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation of an external market will be ranked at the locking price in the BYX Book and displayed by the System at one minimum price variation below the current NBO (for bids) or to one minimum price variation above the NBB (for offers) (''display-price sliding).

[20] The Exchange notes that the reference to ''temporarily'' is meant to convey that for so long as the NBB is locked, Order 1 will be displayed at a price of $0.5001 pursuant to Rule 11.9(g)(1)(A). In the event that the NBB moves so that Order 1 is no longer locking the NBB, Order 1 will be displayed at the most aggressive permissible price.

[21] *Id.*

[22] *See* Rule 11.9(g)(1)(E).

[23] *See* Rule 11.9(b)(1). An ''IOC'' order is a limit order that is to be executed in whole or in part as soon as such order is received. The portion not executed immediately on the Exchange or another trading center is treated as cancelled and is not posted to the BYX Book.

[24] Orders subject to NMS Price Sliding (''display-price sliding'') that are temporarily slid to one minimum price variation above (below) the NBO (NBB) will consist of a non-displayed ranked price that is equal to the locking price while simultaneously showing a displayed price that is one minimum price variation above (below) the NBO (NBB). Given that orders subject to display-price sliding contain a non-displayed ranked price in addition to the order's displayed price, the particular priority issue identified in the Resting Order Execution Filing with regard to Non-Displayed Orders is also present when an order subject to display-price sliding is resting on the BYX Book opposite a displayed order.

Rule 11.9(g)(1)(A) as it locked the NBB. Upon the arrival of Order 2, which is a BYX Post Only Order that is permitted to post to the BYX Book and display opposite of Order 1,[25] the Exchange's current priority rule prohibits Order 1 from executing at a price of $0.50 in the event a subsequent contra-side incoming order is entered at a more aggressive price than the locking price. In the example above, Order 3 was entered at a more aggressive price ($0.5001) than the locking price ($0.50). Without the proposed changes to Rule 11.13(a)(4), Order 3 would be cancelled upon entry as it cannot execute at a price of $0.50 due to Order 2's higher priority status.

As discussed above, the Exchange is proposing that a Resting Order priced below $1.00 be permitted to execute at one minimum price variation above the locking price (in the event of a Resting Order offer) or one minimum price variation below the locking price (in the event of a Resting Order bid) in the event that an order submitted to the Exchange on the side opposite such Resting Order is a market or limit order priced more aggressively than the locking price.[26] This behavior is substantially similar to the order handling functionality described in the Resting Order Execution Filing, with one difference being that securities priced below $1.00 will execute at one full minimum price variation above (below) the locking price for offers (bids) rather than one-half minimum price variation above (below) the locking price for offers (bids) in securities priced at or above $1.00. While the example above shows a scenario in which only the Resting Order will receive $0.0001 of price improvement, rather than each side of the transaction as is the case in the scenarios described in the Resting Order Execution Filing, the Exchange notes that if Order 3 in the example above was entered at any price more aggressive than $0.5001, Order 3 would continue to execute against Order 1 at a price of $0.5001 and Order 3 would receive price improvement equal to the difference between its limit price and $0.5001.[27]

The Resting Order Execution Filing specifically introduced order handling behavior that would permit Resting Orders to be executed at one-half minimum price variation above (below) the locking price when an incoming, marketable offer (bid) would otherwise be prevented from executing due to the presence of a BYX Post Only Order in order to optimize available liquidity for incoming orders and to provide price improvement for market participants.[28] This change to order handling behavior was required because, if incoming orders were allowed to execute against Resting Orders at the locking price, such incoming order would receive a priority advantage over the resting, displayed order at the locking price, contrary to the Exchange's priority rule, Rule 11.12.[29] The Exchange recognizes that the order handling behavior for securities priced at or above $1.00 described in the Resting Order Execution Filing results in price improvement for both sides of an affected transaction and the Exchange's proposed order handling change will result in $0.0001 of price improvement only for the Resting Order, however this situation is limited to instances where the incoming order is entered at a price equal to the displayed price of the Resting Order. While only the Resting Order will receive $0.0001 of price improvement when an incoming order is entered at the Resting Order's displayed price, the Exchange believes the incoming order is receiving the benefit of immediate execution rather than cancelling back or posting to the BYX Book (depending on User instruction), which will result in higher overall market quality and likelihood of execution on BYX for Users. In situations where the incoming order is entered at a more aggressive price than the displayed price of the Resting Order, however, each side of the transaction will be receiving at least $0.0001 of price improvement.

Without the proposed order handling change for securities priced below $1.00, a Resting Order may be priced at the very inside of the market at a price below $1.00 but temporarily unable to execute at its full limit price due to the Exchange's priority rule and current order handling procedures. The Exchange notes that by permitting a User's Resting Order to rest at a locking price opposite a displayed order and receive an execution against an incoming order that is priced equal to or more aggressively than the displayed price, the Exchange is incentivizing Users to post aggressively priced liquidity on both sides of the market, rather than discouraging such liquidity by leaving orders unexecuted. In addition, if the BYX Book changes so that such orders are no longer resting or ranked opposite a displayed order, then such orders will again be executable at their full limit price, and in the case of price slid orders, will be displayed at that limit price.

The Exchange is proposing a solution to address specific conditions that are present on the BYX Book when a BYX Post Only Order is displayed opposite the ranked price of orders subject to display-price sliding. The Exchange believes that such specific circumstances, without modification of Rule 11.13(a)(4), would be present upon the expansion of BYX Post Only Order functionality to securities priced below $1.00 and would result in Users receiving fewer executions than the Exchange could otherwise facilitate. The Exchange believes the proposed change to Rule 11.13(a)(4)(D) is substantially similar to the order handling modification proposed and ultimately approved by the Resting Order Execution Filing and does not introduce any novel order handling behavior that has not previously been proposed. While the Exchange is proposing to use a full minimum price variation rather than the one-half minimum price variation currently used for securities priced at or above $1.00 as detailed in the Resting Order Execution Filing, the minimum price variation for securities priced below $1.00 is commensurate with the standard minimum pricing increment for securities priced below $1.00.

The Exchange believes the absence of price improvement for the incoming order is diminished by the incoming order's ability to receive an execution on the Exchange against the Resting Order, rather than receive a cancellation or be posted to the BYX Book (depending on User instruction). Further, the Exchange believes that Users who receive increased execution rates on BYX will be more likely to submit additional order flow to the Exchange. Additional increased order flow benefits all market participants by contributing to a deeper, more liquid market and provides even more execution opportunities for active market participants. Additionally, this difference is necessary due to System

[25] *Supra* note 19.

[26] *See* 17 CFR 242.612 (''Minimum pricing increment''). Given that the minimum pricing increment for securities priced below $1.00 is $0.0001, the Exchange believes that allowing orders to execute at one minimum price variation above (for offers) or below (for bids) the locking price is appropriate, as requiring executions to occur at one-half minimum price variation above (for offers) or below (for bids) the locking price, which is the current behavior for securities priced at or above $1.00, would results in trades executing out to five decimal places, which is not supporting by the System.

[27] For example, if all facts from Example 1 remain the same *except* that Order 3 is an IOC buy order entered with a limit price of $0.5005, then Order 3 will execute against Order 1 at a price of $0.5001 and receive $0.0004 of price improvement.

[28] *See* Resting Order Execution Filing at 28831.

[29] *Id.*

limitations that do not support executions out to five decimal places ($0.00001) in securities priced below $1.00, which would occur should the Exchange utilize the same minimum price variation described in the Resting Order Execution Filing. The proposal to amend Rule 11.13(a)(4)(D) is limited to certain circumstances that occur as a result of the presence of a BYX Post Only Order resting opposite a Non-Displayed Order or order subject to display-price sliding and is designed to optimize available liquidity for incoming orders.

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.[30] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [31] 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) [32] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange is proposing to expand its BYX Post Only Order functionality to securities priced below $1.00. In conjunction with expanding the ability to utilize BYX Post Only Orders at prices below $1.00, the Exchange also proposes that a Resting Order priced below $1.00 be permitted to execute at one minimum price variation above the locking price (in the event of a Resting Order offer) or one minimum price variation below the locking price (in the event of a Resting Order bid) in the event that an order submitted to the Exchange on the side opposite such Resting Order is a market or limit order priced more aggressively than the locking price. This change in order handling behavior is necessary in order to address specific conditions that are present on the BYX Book when a BYX Post Only Order is displayed opposite the ranked price of orders subject to display-price sliding. As discussed below, the Exchange believes its proposal is consistent with Section 6(b)(5) of the Act.

In particular, the proposal to amend Rule 11.9(c)(6) to permit orders priced below $1.00 to utilize BYX Post Only Order functionality promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of a free and open market and a national market system because it will allow Users to enter orders with a BYX Post Only instruction at any price, rather than being limited to securities priced above $1.00. The growth in trading of sub-dollar securities has expanded significantly since 2019 and as such, the Exchange believes that orders at all prices, not only securities priced above $1.00, should be permitted to utilize BYX Post Only Order functionality, which will permit orders to post on the Exchange without removing liquidity or routing to away to another trading center. BYX Post Only Orders allow Users to post aggressively priced liquidity, as such Users have certainty as to the fee or rebate they will receive from the Exchange if their order is executed. Without such ability, the Exchange believes that certain Users would simply post less aggressively priced liquidity, and prices available for market participants, including retail investors, would deteriorate. Accordingly, the Exchange believes that BYX Post Only Orders enhance the liquidity available to all market participants by allowing market makers and other liquidity providers to add liquidity to the Exchange at or near the inside of the market. Indeed, such market participants have asked the Exchange to implement such functionality in order to permit them to utilize a single trading strategy across securities at all prices. Allowing BYX Post Only Orders to be utilized at prices below $1.00 will deepen the Exchange's pool of available liquidity in sub-dollar securities, which is a growing area of trading, particularly for retail investors. A deeper and more liquid market supports the quality of price discovery, promotes market transparency, and improves market quality for all investors. The Exchange does not believe that the proposed amendment to Rule 11.9(c)(6) is unfairly discriminatory as it will permit the BYX Post Only Order type to be used by all Users at any price and the order type will no longer be limited to securities priced at or above $1.00.

Similarly, the proposal to amend Rule 11.13(a)(4)(D) to allow, under limited circumstances, a Resting Order priced below $1.00 that would otherwise be non-executable due to the presence of a BYX Post Only Order to execute at one minimum price variation above (below) the locking price upon receipt of an incoming, marketable offer (bid) that would otherwise be prohibited from executing due to the presence of a BYX Post Only Order promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of a free and open market and a national market system because it extends functionality currently available to orders priced at or above $1.00 to orders priced below $1.00, with a slight difference in the minimum price variation to account for the System's inability to display orders out to five decimal places ($0.00001). The proposed amendment to Rule 11.13(a)(4)(D) is substantially similar to the order handling behavior change that was proposed (and later approved) by the Resting Order Execution Filing and will only serve to improve execution quality for participants sending orders to the Exchange.

The Exchange does not believe that the treatment of sub-dollar securities is unfairly discriminatory as the Exchange will be using the standard minimum pricing increment for sub-dollar securities in order to determine the price at which the Resting Order is eligible to execute.[33] While the Exchange recognizes that under its proposal for securities priced below $1.00 results in a limited situation in which only the Resting Order will receive $0.0001 of price improvement (*i.e.,* when an incoming order is entered at the same price as the displayed price of the Resting Order), the Exchange believes the incoming, contra-side order is receiving the benefit of immediate execution rather than cancelling or posting to the BYX Book (depending on User instruction), which will result in higher overall market quality and likelihood of execution on BYX for Users. In situations where the incoming order is entered at a more aggressive price than the displayed price of the Resting Order, however, each side of the transaction will receive at least $0.0001 of price improvement, which is substantially similar to how the order handling functionality works for securities priced at or above $1.00. The Exchange believes the proposed change to execute marketable orders that are

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

[32] *Id.*

[33] *Supra* note 26.

currently not executed under specific scenarios will help provide price improvement to Resting Orders that, in these limited circumstances, otherwise would not receive an execution even though their order is priced at the inside of the market and would also provide increased execution opportunities to aggressively priced incoming orders rather than requiring these orders to be cancelled or post to the BYX Book. Thus, the Exchange believes that its proposed order handling process in the limited scenario where a Resting Order is ineligible to execute due to the presence of a contra-side BYX Post Only Order will benefit market participants and their customers by allowing them greater flexibility in their efforts to fill orders and minimize trading costs.

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 intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change to Rule 11.9(c)(6) will apply equally to all Users in that all Users will be eligible to utilize the BYX Post Only Order for securities priced below $1.00. Similarly, the proposed change to Rule 11.13(a)(4)(D) applies equally to all Users in that all Resting Orders will benefit from the proposed order handling behavior change that will execute Resting Orders at one minimum price variation above (below) the locking price upon the receipt of a marketable offer (bid) should a Resting Order be ineligible to execute due to the presence of a contra-side BYX Post Only Order. The proposed changes are designed to expand an existing Exchange order type and existing order handling behavior to securities priced below $1.00 due to the growth in sub-dollar trading that has been seen since 2019. Further, the Exchange does not believe that Users submitting incoming, contra-side orders are burdened by virtue of not receiving price improvement in limited situations as they instead receive the benefit of an immediate execution as opposed to being cancelled back to the User or posting on the BYX Book which results in increased overall market quality and a higher likelihood of execution on BYX.

The Exchange similarly 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. In fact, the Exchange notes that other exchanges already offer the ability to submit an order that is not eligible for routing to away markets and posts to the relevant exchange book at prices below $1.00.[34] The Exchange believes its proposal to expand the use of the BYX Post Only Order to securities priced below $1.00 will promote competition between the Exchange and other exchanges for volume in sub-dollar securities. Furthermore, the Exchange believes its proposal will promote competition between the Exchange and off-exchange trading venues, where a significant amount of sub-dollar trading occurs today.[35] The Exchange similarly believes that its proposal to amend its order handling behavior in limited circumstances where a Resting Order cannot execute due to the presence of a contra-side BYX Post Only Order does not impose a burden on intermarket competition as the change is not designed to address any competitive issue, but rather to address order handling behavior in a substantially similar manner to how the Exchange treats Resting Orders priced at or above $1.00 in the limited scenario where a Resting Order is ineligible to execute against an incoming, marketable order due to the presence of a contra-side BYX Post Only Order.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

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–CboeBYX–2024–003 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–CboeBYX–2024–003. 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–CboeBYX–2024–003 and should be submitted on or before February 20, 2024.

[34] *See* Nasdaq Equity 4, Rule 4702(b)(4) (''Post-Only Order''). *See also* NYSE Rule 7.31(e)(2) (''ALO Order'').

[35] *See* ''Off-Exchange Trends: Beyond Sub-dollar Trading'' (May 17, 2023). Available at *https://www.cboe.com/insights/posts/off-exchange-trends-beyond-sub-dollar-trading/*.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01617 Filed 1–26–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99415; File No. SR–CboeBZX–2023–063]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Adopt an Alternative to the Minimum $4 Price Requirement for Companies Seeking To List Tier II Securities on the Exchange

January 23, 2024.

On September 19, 2023, Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt an alternative to the minimum $4 price requirement for companies seeking to list Tier II securities on the Exchange. The proposed rule change was published for comment in the **Federal Register** on October 2, 2023.[3] On November 6, 2023, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission received two comments on the proposed rule change.[6]

On December 27, 2023, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[7] to determine whether to approve or disapprove the proposed rule change.[8] On January 17, 2024, the Exchange withdrew the proposed rule change (SR–CboeBZX–2023–063).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01619 Filed 1–26–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99417; File No. SR–CBOE–2023–063]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend the Exchange's Rules Relating to Position and Exercise Limits

January 23, 2024.

On November 29, 2023, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules relating to position and exercise limits. The proposed rule change was published for comment in the **Federal Register** on December 14, 2023.[3] The Commission has received two comment letters regarding the proposed rule change.[4]

Section 19(b)(2) of the Act[5] 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 January 28, 2024.

The Commission is extending the 45-day time period for Commission action on 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 so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, pursuant to Section 19(b)(2) of the Act,[6] the Commission designates March 13, 2024, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CBOE–2023–063).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01621 Filed 1–26–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, February 1, 2024.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

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[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98532 (Sept. 26, 2023), 88 FR 67852.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 98860, 88 FR 77647 (Nov. 13, 2023).

[6] Comments received on the proposed rule change are available at: *https://www.sec.gov/comments/sr-cboebzx-2023-063/srcboebzx2023063.htm.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities Exchange Act Release No. 99247, 89 FR 425 (Jan. 3, 2024).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 99119 (December 8, 2023), 88 FR 86701.

[4] *See* letters from Jennifer W. Han, Executive Vice President, Chief Counsel and Head of Global Regulatory Affairs, Managed Funds Association, to Sherry R. Haywood, Assistant Secretary, Commission, dated January 4, 2024; and Jiří Król, Deputy CEO, Global Head of Government Affairs, Alternative Investment Management Association, to Vanessa Countryman, Secretary, Commission, dated January 14, 2024. Comment letters can be accessed at *https://www.sec.gov/comments/sr-cboe-2023-063/srcboe2023063.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions; Institution and settlement of administrative proceedings; Resolution of litigation claims; and Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: January 25, 2024.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–01786 Filed 1–25–24; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99416; File No. SR–CBOE–2024–006]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto To List and Trade Options That Overlie a Reduced Value of the MSCI World Index, the Full Value of the MSCI ACWI Index, and a Reduced Value of the MSCI USA Index

January 23, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 10, 2024, 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. On January 17, 2024, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, 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 list and trade options that overlie a reduced value of the MSCI World Index, the full value of the MSCI ACWI Index, and a reduced value of the MSCI USA Index. 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 purpose of this proposed rule change is to amend certain rules to permit the Exchange to list and trade options that overlie a reduced value of the MSCI World Index, the full value of the MSCI ACWI Index, and a reduced value of the MSCI USA Index.[4] Each of these indexes is a free float-adjusted market capitalization index designed to measure equity market performance throughout the world (MSCI World and ACWI Indexes) or the United States (MSCI USA Index). MSCI World Index options (''MXWLD options''), MSCI ACWI Index options (''MXACW options''), and MSCI USA Index options (''MXUSA options'') would be P.M.-, cash-settled contracts with European-style exercise.

Index Design, Methodology, and Dissemination

The MSCI World, ACWI, and USA Indexes are calculated by MSCI Inc. (''MSCI''), which is a provider of investment support tools.[5] Each of these indexes is calculated in U.S. dollars on a real-time basis from the open of the first market on which the components are traded to the closing of the last market on which the components are traded. The methodology used to calculate each index is similar to the methodology used to calculate the value of other benchmark market-capitalization weighted indexes (including the MSCI EAFE and EM Indexes, on which the Exchange may currently list options).[6] Specifically, each index is based on the MSCI Global Investable Market Indexes (''GIMI'') Methodology.[7] The level of each index reflects the free float-adjusted market value of the component stocks relative to a particular base date and is computed by dividing the total market value of the companies in the index by the index divisor.

MSCI monitors and maintains each of the MSCI World, ACWI, and USA Indexes. Adjustments to each index are made on a daily basis with respect to corporate events and dividends. MSCI reviews each index on a quarterly basis (February, May, August and November) ''with the objective of reflecting the evolution of the underlying equity markets and segments on a timely basis, while seeking to achieve: [i]ndex continuity, [c]ontinuous investability of constituents and replicability of the indexes, and [i]ndex stability and low index turnover.'' [8] Each quarterly review of the MSCI World, ACWI, and USA Index involves, among other things, updating the constituent securities.[9]

For each of the MSCI World, ACWI, and USA Index, real-time data is distributed approximately every 15 seconds while the index is being calculated using MSCI's real-time

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange proposed to delete the proposed rule change to add MSCI USA Index options to the list of options in Rule 5.1(b)(2)(E) for which the last trading day will be the business day prior to the expiration date of the specific series. Therefore, under the proposal as modified by Amendment No. 1, the last trading day for these options would be the expiration date of the specific series.

[4] The proposed rule change amends Rule 4.13, Interpretation and Policy .06 to provide that the current index value of the reduced-value options on the MSCI World Index and the MSCI USA Index will be 1/100th the value of the applicable underlying index reported by the reporting authority.

[5] *See* proposed Rule 4.12(c) (adding MSCI Inc. as the reporting authority for MSCI World Index, MSCI ACWI Index, and MSCI USA Index).

[6] *See* current Rule 4.10(h); *see also* Securities Exchange Act Release No. 74681 (April 8, 2015), 80 FR 20032 (April 14, 2015) (SR–CBOE–2015–023) (order approving proposed rule change to adopt rules to permit listing and trading of options on the MSCI EAFE Index (''EAFE options'') and the MSCI EM Index) (''EM options'') (''MSCI EAFE and EM Approval'').

[7] *See* summary and comprehensive information about the GIMI methodology, *available at https://www.msci.com/index/methodology/latest/GIMI.*

[8] *See id.* at Section 3.

[9] *Id.*

calculation engine to major quotation vendors, including Bloomberg L.P. (''Bloomberg''), FactSet Research Systems, Inc. (''FactSet''), and LSEG Data & Analytics (''LSEG''). End of day data is distributed daily to clients through MSCI as well as through major quotation vendors, including Bloomberg, FactSet, and LSEG.

MSCI World Index

The MSCI World Index is a free float-adjusted market capitalization index that is designed to measure the equity market performance of developed markets. The MSCI World Index consists of component stocks from 23 developed markets.[10] The MSCI World Index consists of large- and mid-cap components across these markets, has 1,509 constituents, and covers approximately 85% of the free float-adjusted market capitalization in each country.[11] The MSCI World Index was launched on March 31, 1986.

The Exchange notes that the iShares MSCI World ETF exchange-traded fund (''ETF'') is an actively traded product. The Exchange also lists options overlying that ETF (''URTH options'') and those options are actively traded as well. MSCI World Index futures contracts (''MWS futures'') are listed for trading on the ICE Futures U.S.[12] and other derivatives contracts on the MSCI World Index are listed for trading in Europe.

The Exchange proposes to base trading in options on the MSCI World Index on a fraction of the full size of the index. In particular, the Exchange propose to list MXWLD options that are based on 1/100th of the value of the MSCI World Index. The Exchange believes that listing options on the reduced value of the index will attract a greater source of customer business than if options were based on the full value of the MSCI World Index. The Exchange further believes that listing options on a reduced value of the index may enhance investors' opportunities to hedge, or speculate on, the market risk associated with the stocks comprising the MSCI World Index. Additionally, by reducing the value of the MSCI World Index, investors will be able to use this trading vehicle while extending a smaller outlay of capital. The Exchange believes this may attract additional investors, and, in turn, create a more active and liquid trading environment.

MSCI ACWI Index

The MSCI ACWI Index is a free float-adjusted market capitalization index that is designed to measure the equity performance of developed markets and emerging markets. The MSCI ACWI Index consists of component stocks from 23 developed markets [13] and 24 emerging markets.[14] The MSCI ACWI Index consists of large- and mid-cap components across these markets, has 2,946 constituents, and covers approximately 85% of the global investable equity opportunity set.[15] The MSCI ACWI Index was launched on May 31, 1990.

The Exchange notes that the iShares MSCI ACWI ETF is an actively traded product. The Exchange also lists options overlying that ETF (''ACWI options'') and those options are actively traded as well. MSCI ACWI Index futures contracts (''MMW futures'') are listed for trading on the ICE Futures U.S.[16] and other derivatives contracts on the MSCI ACWI Index are listed for trading in Europe.

MSCI USA Index

The MSCI USA Index is a free float-adjusted market capitalization index that is designed to measure the performance of the large- and mid-cap segments of the U.S. market. The MSCI USA Index consists of large- and mid-cap components from the United States, has 625 constituents, and covers approximately 85% of the free float-adjusted market capitalization in the United States.[17] The MSCI USA Index was launched on March 31, 1986.

The Exchange notes that the Invesco MSCI USA ETF is an actively traded product.[18] MSCI USA Index futures contracts (''USS futures'') are listed for trading on the ICE Futures U.S.[19] and other derivatives contracts on the MSCI USA Index are listed for trading in Europe.

The Exchange proposes to base trading in options on the MSCI USA Index on a fraction of the full size of the index. In particular, the Exchange propose to list MXUSA options that are based on 1/100th of the value of the MSCI USA Index. The Exchange believes that listing options on the reduced value of the index will attract a greater source of customer business than if options were based on the full value of the MSCI USA Index. The Exchange further believes that listing options on a reduced value of the index may enhance investors' opportunities to hedge, or speculate on, the market risk associated with the stocks comprising the MSCI USA Index. Additionally, by reducing the value of the MSCI USA Index, investors will be able to use this trading vehicle while extending a smaller outlay of capital. The Exchange believes this may attract additional investors, and, in turn, create a more active and liquid trading environment.

Initial and Maintenance Listing Criteria

The Exchange proposes to apply to each of the MSCI World Index, MSCI ACWI Index, and MSCI USA Index the same initial listing criteria that currently apply to the MSCI EAFE Index and the MSCI EM Index.[20] Each of the MSCI World Index, the MSCI ACWI Index, and the MSCI USA Index satisfies the initial listing criteria currently set forth for EAFE and EM options, as set forth in Rule 4.10(h).[21] Specifically, with respect to each of the MSCI World, ACWI, and USA Index:

(1) the index is broad-based, as defined in Rule 4.11; [22]

(2) options on the index are designated as P.M.-settled index options;

(3) the index is capitalization-weighted, price-weighted, modified capitalization-weighted or equal dollar-weighted;

(4) the index consists of 500 or more component securities;

(5) all of the component securities of the index will have a market capitalization of greater than $100 million

(6) no single component security accounts for more than 15% of the weight of the index,

[10] These developed markets include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Hong Kong, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, the United Kingdom, and the United States.

[11] *See* MSCI World Index fact sheet (dated November 30, 2023), *available at* MSCI World Index.

[12] *See* MWS futures contract specifications, *available at* MSCI World NTR Index Future (*ice.com*).

[13] These developed markets include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Hong Kong, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, the United Kingdom, and the United States.

[14] These emerging markets include Brazil, Chile, China, Colombia, Czech Republic, Egypt, Greece, Hungary, India, Indonesia, Korea, Kuwait, Malaysia, Mexico, Peru, Philippines, Poland, Qatar, Saudi Arabia, South Africa, Taiwan, Thailand, Turkey, and the United Arab Emirates.

[15] *See* MSCI ACWI Index fact sheet (dated November 30, 2023), *available at* MSCI ACWI Index.

[16] *See* MMW futures contract specifications, *available at* MSCI ACWI NTR Index Future (*ice.com*).

[17] *See* MSCI USA Index fact sheet (dated November 30, 2023), *available at* MSCI USA Index.

[18] The Invesco MSCI USA ETF does not currently satisfy criteria for options trading on the Exchange pursuant to Rule 4.3.

[19] *See* USS futures contract specifications, *available at* MSCI USA GTR Index Futures (*ice.com*).

[20] *See* proposed Rule 4.10(h).

[21] The initial listing criteria in Rule 4.10(h) also apply to the FTSE Emerging Index (FTSE Emerging) and FTSE Developed Europe Index (FTSE Developed).

[22] Rule 4.11 defines a broad-based index as an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries.

and the five highest weighted component securities in the index do not, in the aggregate, account for more than 50% of the weight of the index;

(7) non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than: (A) 25% of the weight of the EAFE Index (each of the MSCI World, ACWI, and USA Indexes satisfies this criterium), (B) 27.5% of the weight of the EM Index, (C) 32.5% of the weight of the FTSE Developed Index, and (D) 35% of the weight of the FTSE Emerging Index;

(8) during the time options on the index are traded on the Exchange, the current index value is widely disseminated at least once every 15 seconds by one or more major market data vendors; [23]

(9) the Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange's current Independent System Capacity Advisor (ISCA) allocation and the number of new messages per second expected to be generated by options on such index; and

(10) The Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

The Exchange also proposes to subject each of the MSCI World, ACWI, and USA Indexes to the maintenance listing standards set forth in Rule 4.10(i), which currently applies to the MSCI EAFE and EM Indexes: [24]

(1) the conditions stated in paragraphs (1), (2), (3), (4) (8), (9), and (10) above must continue to be satisfied; the conditions stated in paragraphs (5) and (6) above must be satisfied only as of the first day of January and July in each year; and the conditions set forth in paragraph (7) must be satisfied as of the first day of the month following MSCI's review of the weighting of the constituents in the applicable index but in no case less than a quarterly basis; and

(2) the total number of component securities in the index may not increase or decrease by more than 35% from the number of component securities in the index at the time of its initial listing.[25]

Because each of the MSCI World Index, MSCI ACWI Index, and MSCI USA Index has a large number of component securities and is based on the same methodology as the MSCI EAFE and EM Indexes, as discussed above, the Exchange believes it is appropriate for the initial and maintenance listing criteria (which require continual and periodic compliance) set forth under Rule 4.10(h) and (i) to also apply to the MSCI World, ACWI, and USA Index options.

General Trading

The Exchange proposes that MXWLD, MXACW, and MXUSA options will trade during the same hours as other index options, including EAFE and EM options. Specifically, the Exchange proposes to adopt Regular Trading Hours of 9:30 a.m. to 4:00 p.m. (Eastern time) for MXWLD, MXACW, and MXUSA options.[26]

As proposed, the last trading day for MXUSA options will be the day of expiration (from 9:30 a.m. to 4:00 p.m. (Eastern time), pursuant to Rule 5.1(b)(2)(A)). As set forth below, the Exchange proposes that MXUSA options will be p.m.-settled, which means the exercise settlement value of an expiring option is derived from the closing prices of the underlying components on the series expiration date. As noted above, the MSCI USA Index is comprised of components solely from the United States. Therefore, the components of the MSCI USA Index trade from 9:30 a.m. to 4:00 p.m. (Eastern time), including on the expiration date of the proposed MXUSA options. Allowing options to trade through their expiration (and thus on their day of expiration) will provide investors with the ability to modify their positions in response to changes in the prices of the underlying index components that will impact the settlement values of those options. This is consistent with the last trading day for other options on broad-based p.m.-settled indexes comprised of components solely from the United States.[27]

The Exchange proposes to amend Rule 5.1(b)(2)(E) to provide that the last trading day for MXWLD and MXACW options will be the business day prior to the expiration date of the specific series (from 9:30 a.m. to 4:00 p.m. (Eastern time), pursuant to Rule 5.1(b)(2)(A)).[28] As set forth below, the Exchange proposes that MXWLD and MXACW options will be p.m.-settled, which means the exercise settlement value of an expiring option is derived from the closing prices of the underlying components on the series expiration date. As noted above, each of the MSCI World Index and MSCI ACWI Index consists of components from 23 countries. Because the components of each of these indexes encompass multiple markets around the world (unlike the components of the MSCI USA Index, all of which trade in the United States and thus during regular U.S. trading hours of 9:30 a.m. to 4:00 p.m. (Eastern time)), the components are subject to varying trading hours. For each of these indexes, the first components open trading at approximately 4:00 p.m. (Eastern time) on the prior trading day, and the last components end trading at approximately 4:00 p.m. (Eastern time). As a result, trading in various components would end prior to the beginning of MXWLD and MXACW Regular Trading Hours at 9:30 a.m. (Eastern time).[29] As a result, the closing prices of those components, which are used to determine the exercise settlement value, will be determined prior to the time when the expiring options may begin trading on the expiration date. This increases the risk of providing liquidity in these products on that date. Generally, the prices of futures on the MSCI World and ACWI Indexes can be a proxy for the current level of the applicable index when options on those indexes are trading on the Exchange while the index level is not being disseminated. However, that is not the case on options' expiration dates, as the prices that will be used to determine the exercise settlement value are fixed once trading in the components ends, and thus futures trading prices after trading in those components end have no bearing on the exercise settlement value. Therefore, the Exchange believes it is appropriate to stop trading in expiring MXWLD and MXACW options on the business day prior to the expiration date.

[23] This listing criteria permits the Exchange to continue to trade EAFE, FTSE Developed, and FTSE Emerging options after trading in all component securities has closed for the trading day and the index level is no longer widely disseminated at least once every 15 seconds as long as corresponding futures contracts are still trading. This is inapplicable to MXWLD, MXACW, and MXUSA options, as the index level for each index will be widely disseminated through the end of trading for options on each index.

[24] The maintenance listing criteria in Rule 4.10(i) also apply to the FTSE Emerging Index (FTSE Emerging) and FTSE Developed Europe Index (FTSE Developed).

[25] This maintenance criteria applies a 10% threshold rather than a 35% threshold to the EM Index. As is the case with other index options authorized for listing and trading on Cboe Options, in the event the MSCI World Index, MSCI ACWI Index, or MSCI USA Index fails to satisfy the maintenance listing standards, the Exchange will not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of Act.

[26] *See* proposed Rule 5.1(b)(2)(A).

[27] For example, p.m.-settled options on the S&P 500 Index may trade on their expiration dates.

[28] Amendment No. 1 deletes the proposed rule change to add MXUSA options to the list of options in Rule 5.1(b)(2)(E). Therefore, as proposed in this Amendment No. 1, the last trading day for MXUSA options will be the expiration date of the specific series.

[29] For example, some components end trading at 10:45 p.m. (Eastern time) on the prior trading day. Trading in the other components ends at various times before and during the U.S. trading day.

Pursuant to Rule 5.3(a), bids and offers on MXWLD, MXACW, and MXUSA options (like all other options) must be expressed in terms of dollars and decimals per unit of the underlying index. Pursuant to Rule 5.4(a), the minimum increment for bids and offers on simple orders for options on these three indexes, as is the case for most other index options, will be $0.05 if the series trading price is lower than $3.00 and $0.10 if the series trading price is $3.00 or higher. Rule 5.4(b) provides that the minimum increment for bids and offers on complex orders in options on these three indexes will be $0.01 or greater (as determined by the Exchange) and that the legs may be executed in $0.01 increments.

MXWLD, MXACW, and MXUSA options will be subject to the same procedures for adding and deleting strikes for index options as other index options. Specifically, Rule 4.13, Interpretation and Policy .01 states the procedures for adding and deleting strike prices for index options are provided in Rule 4.5 and Interpretations and Policies related thereto, as otherwise generally provided by Rule 4.13, and as otherwise set forth in Rule 4.13, Interpretation and Policy .01.[30] The Exchange proposes to amend Rule 4.13, Interpretation and Policy .01(a) to provide that the interval between strike prices for MXWLD, MXACW, and MXUSA options will be no less than $5.00 if the strike price is $200 or above, and will be no less than $2.50 if the strike price is less than $200.00. This is consistent with the current strike intervals of many other index options, including EAFE and EM options.

Pursuant to Rule 4.20, the Exchange may authorize for trading a like flexible (''FLEX'') options class on any index if it may authorize for trading a non-FLEX option class on that index pursuant to Rule 4.10. Therefore, as proposed, the Exchange may authorize for trading FLEX Options on the MSCI World Index, MSCI ACWI Index, and MSCI USA Index, which the Exchange may authorize for trading pursuant to proposed Rule 4.10(h).

Additionally, Rule 5.6(c) permits Multi-Class Spread Orders, which are orders to buy a stated number of contracts of a broad-based index option and to sell an equal number, or an equivalent number, of contracts of a related broad-based index option. For purposes of Multi-Class Spread Orders, a ''broad-based index option'' is an option on a broad-based index, ETF, or exchange-traded note (''ETN'') listed in subparagraph (1) of the definition of Multi-Class Spread Order in Rule 5.6(c) or any other broad-based index or ETF or ETN derived from a broad-based index the Exchange determines creates an appropriate hedge with any other broad-based index option. The Exchange proposes to add MSCI World Index and MSCI ACWI Index, as well as corresponding ETFs URTH and ACWI, and the combinations of MXWLD and URTH options and MXACW and ACWI options to the list of permissible Multi-Class Spread Orders, as the Exchange has determined that these combinations create appropriate hedges (as do other MSCI options and corresponding ETF options).

Expiration Months, Settlement, and Exercise Style

Consistent with existing rules for other index options, including EAFE and EM options, the Exchange will allow up to twelve near-term expiration months for each of MXWLD, MXACW, and MXUSA options [31] as well as LEAPS.[32] These indexes would also be eligible for all other expirations permitted for other broad-based indexes, including Quarterly Index Expirations [33] and Weekly and End of Month Expirations.[34] Given that the MSCI World, ACWI, and USA Indexes are broad-based indexes and based on the same methodology as the MSCI EAFE and EM Indexes, as noted above, the Exchange believes it is appropriate for options on these three indexes to be eligible for the same expirations for which the options on other broad-based indexes, including MSCI EAFE and EM Indexes, are eligible under current rules.

MXWLD, MXACW, and MXUSA options will be P.M.-, cash-settled contracts with European-style exercise.[35] The Exchange believes that P.M.-settlement is appropriate for MXWLD and MXACW options due to the natures of the underlying indexes that encompass multiple markets around the world. The components of each index open with the start of trading in certain parts of Asia at approximately 4:00 p.m. (Eastern time) (prior day) and close with the end of trading in North America at approximately 4:00 p.m. (Eastern time) (next day) as closing prices from North American countries are accounted for in the closing calculation. The Exchange further believes that P.M.-settlement is appropriate for MXWLD and MXACW options, as well as MXUSA options, because the Exchange understands that investors prefer to be able to trade out of positions during the entire final day of trading. The Exchange notes the Commission recently approved proposals to make other pilots permitting P.M.-settlement of index options permanent after finding those pilots were consistent with the Act and the options subject to those pilots had no significant impact on the market.[36] Rule 4.13(e) currently permits the Exchange to list P.M.-settled weekly and end-of-month expirations for all broad-based index options, which would include MXWLD, MXACW, and MXUSA options.

The Exchange proposes to amend Rule 4.13(a)(3) to add MXWLD, MXACW, and MXUSA options to the list of other European-style (and P.M.-settled) index options. European-style (and P.M.-settled) exercise is consistent with many index options, as set forth in Rule 4.13(a)(3). EAFE and EM options are also P.M.-settled with European-style exercise. Given that the MSCI World, ACWI, and USA Indexes are broad-based indexes and based on the same methodology as the MSCI EAFE and EM Indexes, as noted above, the Exchange believes it is appropriate for options on these three indexes to have the same settlement and exercise style as the other MSCI Index options.

Like other index options, the exercise settlement amount of MXWLD, MXACW, and MXUSA options will be equal to the difference between the exercise settlement value (with respect to MXWLD and MXUSA options, 1/100th of the official closing value of the MSCI World Index and MSCI USA Index, respectively, and, with respect to MXACW options, the official closing value of the MSCI ACWI Index, each as

[30] These Rules set forth the criteria for listing initial and additional series of the same class as the current value of the underlying index moves. Generally, additional series must be ''reasonably related'' to the current index value, which means that strike prices must be within 30% of the current index value. New series of index option contracts may be added up to the fifth business day prior to expiration. Series exceeding the 30% range may be listed based on demonstrated customer interest. *See* Rule 4.13, Interpretations and Policies .01 and .04.

[31] *See* proposed Rule 4.13(a)(2).

[32] Pursuant to Rule 4.13(b)(1), the Exchange may list up to 10 expiration months of long-term index option series (''LEAPS'') that expire from 12 to 180 months from the date of issuance.

[33] *See* Rule 4.13(c).

[34] *See* Rule 4.13(e).

[35] *See* Proposed Rule 4.13(a)(3).

[36] *See* Securities Exchange Act Release Nos. 98454 (September 20, 2023) (SR–CBOE–2023–005) (order approving proposed rule change to make permanent the operation of a program that allows the Exchange to list p.m.-settled third Friday-of-the-month SPX options series); 98455 (September 20, 2023) (SR–CBOE–2023–019) (order approving proposed rule change to make permanent the operation of a program that allows the Exchange to list p.m.-settled third Friday-of-the-month XSP and MRUT options series); and 98456 (September 20, 2023) (SR–CBOE–2023–020) (order approving proposed rule change to make the nonstandard expirations pilot program permanent).

reported by the reporting authority on the day on which the index option contract is exercised) and the exercise price of the option (multiplied by the contract multiplier of $100).[37]

Position and Exercise Limits

The Exchange proposes to amend Rule 8.31(a) to apply a position limit of 50,000 contracts (with no restrictions) to MXWLD, MXACW, and MXUSA options.[38] This is the same position limit that currently exists for many other broad-based index options, including EAFE and EM options.[39] Pursuant to Rule 8.42(b), the exercise limit for these options will be equivalent to the proposed position limit of 50,000 contracts. As set forth in Rule 8.31(d), positions in MXWLD options and MXUSA options (which are proposed to be reduced-value index options) will be aggregated with positions in full-value indexes.[40] All position limit hedge exemptions would apply.

Margin

MXWLD, MXACW, and MXUSA options will be margined as ''broad-based index'' options. Under the Exchange's Rules, particularly Rule 10.3(c)(5)(A), the margin requirement for a short put or call will be 100% of the current market value of the contract plus 15% of the ''product of the current index group value and the applicable index multiplier,'' reduced by any out-of-the-money amount. There would be a minimum margin requirement of 100% of the current market value of the contract plus: 10% of the aggregate put exercise price amount in the case of puts, and 10% of the product of the current index group value and the applicable index multiplier in the case of calls. Additional margin may be required under the Rules, including pursuant to Rules 10.3(h) and 10.10.

Surveillance and Capacity

The Exchange represents that it has an adequate surveillance program in place for MXWLD, MXACW, and MXUSA options and intends to use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in these options. The Exchange is a member of the Intermarket Surveillance Group (''ISG''), along with numerous other self-regulatory bodies across the world. ISG provides a framework for sharing information and coordinating regulatory efforts among exchanges trading securities and related products.[41] The Exchange is also an affiliate member of the International Organization of Securities Commissions (''IOSCO''), which has members from over 100 different countries. Each of the countries from which there is a component security in both the MSCI EAFE and MSCI EM Indexes is a member of IOSCO.[42] Finally, the Exchange has entered into various comprehensive surveillance agreements (''CSAs'') and/or Memoranda of Understanding with various stock exchanges. Given the capitalization of the EAFE and EM Indexes and the deep and liquid markets for the securities underlying these Indexes, the concerns for market manipulation and/or disruption in the underlying markets are greatly reduced.

The Exchange has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of MXWLD, MXACW, and MXUSA options. Because the proposal is limited to three classes, the Exchange believes any additional traffic that would be generated from the introduction of the MSCI World, ACWI, and USA Index options would be manageable.

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.[43] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[44] 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)[45] 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 that the proposal to permit the Exchange to list and trade options on each of the MSCI World Index, the MSCI ACWI Index, and the MSCI USA Index will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because the proposed rule change will introduce new index option products to the marketplace. As a result, investors will have additional and different opportunities to hedge or speculate on the market risk associated with these indexes by offering exchange-listed options directly on the indexes. Further, the proposed rule change is consistent with current Rules, which were previously approved by the

[37] *See* Rule 4.13, Interpretation and Policy .05. If the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the settlement value would be determined in accordance with the rules and bylaws of The Options Clearing Corporation (''OCC''). *See* OCC Bylaws, Article XVII, Section 4.

[38] Additionally, the Exchange proposes to amend Rule 8.35(a)(6) to provide that, like FLEX Options on the MSCI EAFE Index and MSCI EM Index, the position limits for FLEX options on the MSCI World Index, MSCI ACWI Index, and MSCI USA Index are equal to the position limits for the non-FLEX options on these indexes (which is 50,000 contracts, as proposed). Pursuant to Rule 8.42(g), the exercise limit for FLEX index options (which would include FLEX options on the MSCI World, ACWI, and USA Indexes) will be equivalent to the FLEX position limits prescribed in Rule 8.35(a)(6). As set forth in Rule 8.35(b), in calculating the applicable contract reporting amount for that rule, reduced-value contracts (such as the proposed MXWLD and MXUSA options) will be aggregated with full-value contracts and counted by the amount by which they equal a full-value contract.

[39] *See* Rule 8.31(a).

[40] For example, if an index is reduced by one-tenth, 10 reduced-value contracts equal one contract. If an index is reduced by 1/100, 100 reduced-value contracts will equal one contract. *See* Rule 8.31(d). The Exchange notes it currently does not list, nor plan to list, options on the full value of the MSCI World Index or MSCI USA Index.

[41] *See* list of current ISG members, *available at* Search Results—Members—isg (isgportal.org).

[42] *See* list of current ordinary IOSCO members, *available at http://www.iosco.org/about/?subsection=membership&memid=1.* There are three categories of IOSCO members: ordinary, associate and affiliate. In general, the ordinary members (124) are the national securities commissions in their respective jurisdictions. Associate members (12) are usually agencies or branches of government, other than the principal national securities regulator in their respective jurisdictions that have some regulatory competence over securities markets, or intergovernmental international organizations and other international standard-setting bodies, such as the IMF and the World Bank, with a mission related to either the development or the regulation of securities markets. Affiliate members (62) are self-regulatory organizations, stock exchanges, financial market infrastructures, investor protection funds and compensation funds, and other bodies with an appropriate interest in securities regulation. *See* IOSCO Fact Sheet, *available at http://www.iosco.org/about/pdf/IOSCO-Fact-Sheet.pdf.*

[43] 15 U.S.C. 78f(b).

[44] 15 U.S.C. 78f(b)(5).

[45] *Id.*

Commission.[46] Specifically, each of MSCI World Index, MSCI ACWI Index, and MSCI USA Index satisfies the same initial listing criteria as four other broad-based indexes on which the Exchange is currently permitted to list options.[47] These indexes will also be subject to the same maintenance criteria as these other broad-based indexes.[48] These include the MSCI EAFE Index and MSCI EM Index, each of which is calculated using the same methodology as the MSCI World Index, MSCI ACWI Index, and MSCI USA Index.[49] Additionally, the proposed index options will be subject to the same rules regarding trading hours,[50] trading increments, the number of permissible expirations, strike intervals, settlement, and exercise style that apply to other currently listed broad-based index options, including EAFE and EM options.[51] The Exchange has observed no trading or capacity issues in EAFE or EM option trading given the number of permissible expirations, p.m.-settlement, and European-style exercise. Given the similarities of these indexes and the MSCI World Index, MSCI ACWI Index, and MSCI USA Index, including that there are other products available in the market on the same indexes, the Exchange believes it is reasonable and appropriate to list options on these indexes with similar terms as EAFE and EM options. The Exchange believes this will benefit investors, as it will provide market participants with additional investment and hedging strategies consisting of options over each of these indexes.

The Exchange believes the proposed rule changes regarding the last day of trading for MXWLD, MXACW, and MXUSA options will remove impediments to and perfect the mechanism of a free and open market and benefit investors. The Exchange understands that Market-Makers and other liquidity providers will generally price these options using the disseminated index values and data from the markets on which the components trade (as they do for EAFE and EM options). As noted above, when these markets are not trading during U.S. trading hours, these liquidity providers can price the options using prices of futures trading on the MSCI World and ACWI Indexes. While those futures prices can serve as a proxy for the index value, they would not be able to serve as a proxy for the settlement value on the expiration date for MXWLD and MXACW options. This is because the futures pricing is intended to represent the then-current index value, but does not incorporate the closing prices of the components that will be used to determine the settlement value. This would create risk for Market-Makers and other liquidity providers, as they would have no data they can use to price the expiring options based on the ultimate settlement value. This could result in trades at prices inconsistent with the settlement value of those options. The Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market by eliminating this pricing risk for liquidity providers on the last trading day of expiring series in these products and may provide more competitive pricing and additional trading opportunities for expiring series, which ultimately benefits investors. Other options stop trading on the business day preceding expiration.[52]

The Exchange proposes that the last day of trading for MXUSA options will be their expiration dates, like most p.m.-settled options the Exchange lists. Unlike the MSCI World and ACWI Indexes, all of the components of the MSCI USA Index trade on U.S. markets. Thus, the prices of those components will be changing on the expiration date of MXUSA options from 9:30 a.m. to 4:00 p.m. (Eastern time) on the options' expiration dates. As noted above, the Exchange understands that Market-Makers and other liquidity providers will generally price these options using the disseminated index values and data from the markets on which the components trade. With respect to the MSCI USA Index, its underlying components will be trading from 9:30 a.m. to 4:00 p.m. (Eastern time) on the expiration date of MXUSA options, and thus up until the time (4:00 p.m. (Eastern time)) when MSCI will disseminate the closing value of the index. Permitting trading on the expiration date for the MXUSA options will allow Market-Makers and other liquidity providers to update the prices of expiring options in response to changes in the prices of the index components on that date, which changes will be incorporated into the settlement value of those options. The Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market by encouraging liquidity providers to provide more competitive pricing and additional trading opportunities for expiring series at prices that reflect the then-current value of the index and its components. Additionally, permitting trading in MXUSA options on their expiration dates will permit investors to be able to trade out of positions in response to pricing changes of those components during the entire final day of trading before the options' settlement. Other p.m.-settled index options stop trading on their expiration dates.[53]

The Exchange believes offering options on a reduced value of each of the MSCI World Index and MSCI USA Index will benefit investors, as it will attract a greater source of customer business than if options were based on the full value of those indexes.[54] The Exchange further believes that listing options on a reduced value of the index may enhance investors' opportunities to hedge, or speculate on, the market risk associated with the stocks comprising the MSCI World Index and MSCI USA Index. Additionally, by reducing the value of the MSCI World Index and MSCI USA Index, investors will be able to use this trading vehicle while extending a smaller outlay of capital. The Exchange believes this may attract additional investors, and, in turn, create a more active and liquid trading environment.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,[55] which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Trading Permit Holders (''TPHs'') and persons associated with its TPHs with the Act, the rules and regulations

[46] *See* MSCI EAFE and EM Approval.

[47] *See* current Rule 4.10(h).

[48] *See* current Rule 4.10(i).

[49] These indexes also have the same reporting authority as the MSCI EAFE Index and MSCI EM Index.

[50] As discussed above and below, the proposed last trading of expiring MXWLD and MXACW options will be the day prior to expiration, as is the case for EAFE and EM options, while the proposed last trading day of expiring MXUSA options will be the day of expiration, as is the case for p.m.-settled options overlying broad-based index options comprised solely of U.S. components.

[51] *See* Rules 4.13 (including paragraphs (a)(2) and (3), (b), (c) and (e) and Interpretation and Policy .01), 5.1(b)(2), 5.3(a), and 5.4.

[52] *See, e.g.,* Rule 5.1(b)(2)(E) (pursuant to which the last trading day for EAFE and EM options will be the business day prior to the expiration date of the specific series).

[53] *See, e.g.,* Rule 5.1(b)(2)(C) (pursuant to which the last trading day for SPX options is the expiration date of the specific series).

[54] At the close of trading on January 8, 2024, the value of the MSCI World Index was 3153.60, and the value of the MSCI USA Index was 4,541.61. For comparison, the value of the MSCI ACWI Index was 720.07. The Exchange currently has authority to list several reduced-value index options (particularly on indexes with values of 1,000 or more), such as the S&P 500 Index and the Russell 2000 Index. *See* Rule 4.13, Interpretation and Policy .06.

[55] 15 U.S.C. 78f(b)(1).

thereunder, and the rules of the Exchange. The Exchange represents that it has the necessary systems capacity to support the new option series given these proposed specifications. The Exchange believes the existing surveillance procedures and reporting requirements at the Exchange and other self-regulatory organizations are capable of properly identifying disruptive and/or manipulative trading activity that may arise from listing and trading MXWLD, MXACW, and MXUSA options. The Exchange also represents it has adequate surveillances in place to detect potential manipulation, as well as reviews in place to identify potential changes in composition of the underlying indexes and continued compliance with the Exchange's listing standards. These procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlyings, as applicable.[56] The Exchange also notes that large stock holdings must be disclosed to the Commission by way of Schedules 13D or 13G,[57] which are used to report ownership of stock which exceeds 5% of a company's total stock issue and may assist in providing information in monitoring for any potential manipulative schemes.

Additionally, the proposed position and exercise limits that would apply to MXWLD, MXACW, and MXUSA options are similar to the current position and exercise limits that apply to other broad-based index options, and the same as those that apply to EAFE and EM options. The Exchange further notes that current Rules that apply to the trading of other index options traded on the Exchange, such as EAFE and EM options, would also apply to the trading of MXWLD, MXACW, and MXUSA options, such as, for example, Rules governing customer accounts, margin requirements, and trading halt procedures. The proposed index options would be subject to the same reporting requirements as other index options, which require that each TPH or TPH organization that maintains positions in the options on the same side of the market, for its own account or for the account of a customer, report certain information to the Exchange. This information would include, but would not be limited to, the options' positions, whether such positions are hedged and, if so, a description of the hedge(s).

[56] The Exchange believes these procedures have been effective for the surveillance of trading other broad-based index options, including EAFE and EM options, and will continue to employ them with respect to MXWLD, MXACW, and MXUSA options.

[57] 17 CFR 240.13d–1.

Market-Makers [58] (including Designated Primary Market-Makers (''DPMs'')) [59] would continue to be exempt from this reporting requirement, however, the Exchange may access Market-Maker position information.[60] Moreover, the Exchange's requirement that TPHs file reports with the Exchange for any customer who held aggregate large long or short positions on the same side of the market of 200 or more options contracts of any single class for the previous day will remain at this level for the options subject to this proposal and will continue to serve as an important part of the Exchange's surveillance efforts.[61]

The Exchange believes the current financial requirements imposed by the Exchange and by the Commission adequately address concerns regarding potentially large, unhedged positions on index options, further promoting just and equitable principles of trading and the maintenance of a fair and orderly market. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a TPH must maintain for a large position held by itself or by its customer.[62] In addition, Rule 15c3–1 [63] imposes a capital charge on TPHs to the extent of any margin deficiency resulting from the higher margin requirement.

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, because MXWLD, MXACW, and MXUSA options will be available to all market participants and will trade in the same manner as other index options in accordance with the Exchange's Rules.

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, and instead believes the proposed rule change will enhance competition among market participants by introducing new index options to the market that may compete with other products currently available in the market (such as U.S.- and European-traded derivatives on the same indexes). As discussed above, the MSCI World Index, MSCI ACWI Index, and MSCI USA Index each satisfies the same initial listing criteria that currently applies to the MSCI EAFE Index and MSCI EM Index (as well as the FTSE Developed and FTSE Emerging Index). Additionally, the proposed terms of these index options (including the number of expirations, settlement, and exercise style) are consistent with current rules applicable to many other broad-based index options.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

[58] A Market-Maker ''Trading Permit Holder registered with the Exchange pursuant to Rule 3.52 for the purpose of making markets in option contracts traded on the Exchange and that has the rights and responsibilities set forth in Chapter 5, Section D of the Rules.'' *See* Rule 1.1.

[59] A DPM is a TPH organization that is approved by the Exchange to function in allocated securities as a Market-Maker (as defined in Rule 8.1) and is subject to the obligations under Rule 5.54 or as otherwise provided under the rules of the Exchange. *See* Rule 1.1.

[60] The Options Clearing Corporation (''OCC'') through the Large Option Position Reporting (''LOPR'') system acts as a centralized service provider for TPH compliance with position reporting requirements by collecting data from each TPH or TPH organization, consolidating the information, and ultimately providing detailed listings of each TPH's report to the Exchange, as well as Financial Industry Regulatory Authority, Inc. (''FINRA''), acting as its agent pursuant to a regulatory services agreement (''RSA'').

[61] *See* Rule 8.43 for reporting requirements.

[62] *See* Rule 10.3 for a description of margin requirements.

[63] 17 CFR 240.15c3–1.

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–2024–006 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–2024–006. 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, as modified by Amendment No. 1, 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–2024–006 and should be submitted on or before February 20, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[64]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01620 Filed 1–26–24; 8:45 am]

BILLING CODE 8011–01–P

[64] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, January 31, 2024, at 10:00 a.m. (ET).

PLACE: The meeting will be held in Auditorium LL–002 at the Commission's headquarters, 100 F Street NE, Washington, DC 20549 and will be simultaneously webcast on the Commission's website at *www.sec.gov.*

STATUS: This meeting will begin at 10:00 a.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Visitors will be subject to security checks. The meeting will be webcast on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED:

1. The Commission will consider whether to adopt new rules to further define the phrase ''as a part of a regular business'' as used in the statutory definitions of the terms ''dealer'' and ''government securities dealer'' under the Securities Exchange Act of 1934, in connection with certain liquidity providers.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: January 24, 2024.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01758 Filed 1–25–24; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99414; File No. SR–CboeBZX–2024–006]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 11.9(c)(6) and Rule 11.13(a)(4)(D) To Permit the Use of BZX Post Only Orders at Prices Below $1.00

January 23, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 8, 2024, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend Rule 11.9(c)(6) and Rule 11.13(a)(4)(D) to permit the use of BZX Post Only Orders at prices below $1.00. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Trading in sub-dollar securities both on- and off-exchange has grown significantly since early 2019. An analysis of SIP [3] data by the Exchange found that sub-dollar average daily volume has increased 313% as compared to volumes in the first quarter of 2019.[4] During this period, on-exchange average daily volume in sub-dollar securities grew from 442 million

[3] The ''SIP'' refers to the centralized securities information processors.

[4] *See* ''How Subdollar Securities are Trading Now'' (March 16, 2023). Available at *https://www.cboe.com/insights/posts/how-subdollar-securities-are-trading-now/.*

shares per day to 1.8 billion shares per day.[5] A separate analysis of SIP and FINRA Trade Reporting Facility (''TRF'')[6] data indicated that exchanges represented approximately 39.8% market share in sub-dollar securities, with a total of 1,638 securities trading below $1.00.[7] As an exchange group, Cboe had approximately 13.3% of market share in sub-dollar securities in the first quarter of 2023.[8]

As a result of the growth in sub-dollar trading, the Exchange proposes to amend Rule 11.9(c)(6) in order to permit a BZX Post Only Order to post to the BZX Book[9] at prices below $1.00. As defined in Rule 11.9(c)(6), a BZX Post Only Order is ''[a]n order that is to be ranked and executed on the Exchange pursuant to Rule 11.12 and Rule 11.13(a)(4) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the BZX Book. . .''. Accordingly, a BZX Post Only Order does not remove liquidity, but rather posts to the BZX Book to the extent permissible. Additionally, the Exchange proposes to amend Rule 11.13(a)(4)(D) to describe the manner in which bids or offers priced below $1.00 per share are executed against orders resting on the BZX Book. The Exchange believes the proposed changes will provide Users[10] with an additional order type to utilize when submitting order flow to the Exchange in securities priced below $1.00, thereby contributing to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities on the Exchange.

Currently, BZX Post Only Orders priced below $1.00 are automatically treated as orders that remove liquidity.[11] In order to permit a BZX Post Only Order to post to the BZX Book at prices below $1.00, the Exchange proposes to amend Rule 11.9(c)(6) to remove language that states that a BZX Post Only Order ''will remove contra-side liquidity from the BZX Book if the order is an order to buy or sell a security priced below $1.00. . .''. While the Exchange's economic best interest calculation[12] will remain the same as is currently in-place for securities priced at or above $1.00, the impact of this proposal will modify the outcome of BZX Post Only Orders in securities priced below $1.00 for Users who choose to utilize this particular order type. Under this proposal, BZX Post Only Orders priced below $1.00 will only remove liquidity if the value of the overall execution (taking into account all applicable fees and rebates) make it economically beneficial for the order to remove liquidity. The Exchange has received User feedback requesting the ability to utilize BZX Post Only Orders in securities priced below $1.00 in order to allow Users to operate a single trading strategy for securities at all prices even though the execution cost economics for securities priced below $1.00 may only provide a slight economic benefit for Users who choose to utilize BZX Post Only Orders in securities priced below $1.00.

In addition to the proposed amendment to Rule 11.9(c)(6), the Exchange proposes an amendment to its order handling procedures in order to permit Non-Displayed Orders[13] and orders subject to display-price sliding (collectively, ''Resting Orders'') which are not executable at their most aggressive price due to the presence of a contra-side BZX Post Only Order to be executed at one minimum price variation less aggressive than the order's most aggressive price.[14] Currently, similar order handling behavior applies only to securities priced at or above $1.00.[15] When proposed in 2011, the Resting Order Execution Filing stated that the order handling functionality was not necessary for securities priced below $1.00 as the Exchange did not have the ability to quote in sub-pennies and the system limitations that market participants may encounter if attempting to execute in increments finer than $0.0001.[16] Given the rise in sub-dollar trading discussed above, the Exchange now proposes to expand the order handling functionality introduced by the Resting Order Execution Filing to securities priced below $1.00.

Rule 11.13(a)(4)(D) states that for securities priced above $1.00, incoming orders that are market orders or limit orders priced more aggressively than a displayed order on the same side of the market, the Exchange will execute the incoming order at, in the case of an incoming sell order, one-half minimum price variation less than the price of the displayed order, and, in the case of an incoming buy order, at one-half minimum price variation more than the price of the displayed order. The Exchange proposes that for securities priced below $1.00, incoming orders that are market orders or limit orders priced more aggressively than a displayed order on the same side of the market, the Exchange will execute the incoming order at, in the case of an incoming sell order, one minimum price variation less than the price of the displayed order, and, in the case of an incoming buy order, at one minimum price variation more than the price of the displayed order. The different treatment of securities priced below $1.00 from securities priced at or above $1.00 arises from limitations within the System,[17] which cannot process executions out to five decimal places.

In order to demonstrate the proposed order handling behavior for securities priced below $1.00, the Exchange has included the following examples:

Example 1

- Assume the NBB is $0.50 and the NBO is $0.53. There is no resting interest on the BZX Book.

[5] *Id.*

[6] Trade Reporting Facilities are facilities through which FINRA members report off-exchange transactions in NMS stocks, as defined in SEC Rule 600(b)(47) of Regulation NMS. *See* Securities Exchange Act Release No. 96494 (December 14, 2022), 87 FR 80266 (December 29, 2022) (''Tick Size Proposal'') at 80315.

[7] *Supra* note 5.

[8] *Id.*

[9] *See* Rule 1.5(e). The BZX Book means the System's electronic file of orders.

[10] *See* Rule 1.5(cc). The term ''User'' shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

[11] BZX Post Only Orders in securities priced at or above $1.00 remove contra-side liquidity only if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the BZX Book and subsequently provided liquidity. The Exchange does not propose to change the functionality of BZX Post Only Orders in securities priced at or above $1.00.

[12] The Exchange's economic best interest calculation determines whether the value of price improvement associated with a BZX Post Only Order equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the order posted to the BZX Book and subsequently provided liquidity. The determination of whether a BZX Post Only Order will be allowed to post to the BZX Book or be eligible to remove liquidity is based on the current fee schedule, the execution price, and the amount of price improvement received.

[13] *See* Rule 11.9(c)(11). A ''Non-Displayed Order'' is a market or limit order that is not displayed on the Exchange.

[14] *See* Securities Exchange Act Release No. 64475 (May 12, 2011), 76 FR 28830 (May 18, 2011), SR–BATS–2011–015 (''Resting Order Execution Filing''). The Resting Order Execution Filing introduced an order handling change for certain Non-Displayed Orders and orders subject to display-price sliding that are not executable at prices equal to displayed orders on the opposite side of the market (the ''locking price''). The Resting Order Execution Filing permits Resting Orders priced at or above $1.00 to be executed at one-half minimum price variation less aggressive than the locking price (for bids) and one-half minimum price variation more aggressive than the locking price (for offers), under certain circumstances.

[15] *See* Rule 11.13(a)(4)(D).

[16] *See* Resting Order Execution Filing footnote 8.

[17] *See* Rule 1.5(aa). The term ''System'' shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranked, executions and, when applicable, routing away.

	Bid		Offer
National best:	$0.50	×	$0.53

• Next, assume the Exchange received an incoming displayed offer (Order 1) to sell 100 shares at $0.50. Order 1 is eligible for display-price sliding pursuant to Rule 11.9(g).[18] Pursuant to Rule 11.9(g), Order 1 is temporarily slid to a displayed price of $0.5001 as it locked the NBB upon entry.[19] Even though Order 1 is now temporarily displayed at a price of $0.5001, Order 1's ranked price remains $0.50, as $0.50 is the locking price.[20]

• Next, assume the Exchange received an incoming BZX Post Only Order bid (Order 2) to buy 100 shares at $0.50. The Exchange's economic best interest calculation determined that it was more beneficial for Order 2 to post to the BZX Book and display at a price of $0.50. BZX Post Only Orders are permitted to post and be displayed opposite the ranked price of orders subject to display-price sliding.[21] The result is depicted as follows:

	Bid		Offer
National best:	$0.50	×	$0.5001
BZX best:	$0.50	×	$0.5001

• The Exchange then receives an IOC[22] order to buy (Order 3) 100 shares at $0.5001. Order 3 executes against Order 1 in its entirety at a price of $0.5001.

Consistent with the Exchange's rule regarding priority of orders, Rule 11.12, a Non-Displayed order cannot be executed by the Exchange pursuant to Rule 11.13 when such order would be executed at the locking price. Specifically, if an incoming, marketable order was allowed to execute against the resting, non-displayed portion of Order 1 at the locking price, such order would receive a priority advantage over Order 2, a resting, displayed order at the locking price. The Resting Order Execution Filing granted the Exchange the ability to execute Non-Displayed Orders and orders subject to NMS Price Sliding[23] priced at or above $1.00 at one-half minimum price variation more (less) than the locking price in the event that a bid (offer) submitted to the Exchange opposite such Resting Order is a market order or limit order priced more aggressive than the locking price.

In the example above, Order 1, ranked at $0.50 upon entry, was slid to a displayed price of $0.5001 pursuant to Rule 11.9(g)(1)(A) as it locked the NBB. Upon the arrival of Order 2, which is a BZX Post Only Order that is permitted to post to the BZX Book and display opposite of Order 1,[24] the Exchange's current priority rule prohibits Order 1 from executing at a price of $0.50 in the event a subsequent contra-side incoming order is entered at a more aggressive price than the locking price. In the example above, Order 3 was entered at a more aggressive price ($0.5001) than the locking price ($0.50). Without the proposed changes to Rule 11.13(a)(4), Order 3 would be cancelled upon entry as it cannot execute at a price of $0.50 due to Order 2's higher priority status.

As discussed above, the Exchange is proposing that a Resting Order priced below $1.00 be permitted to execute at one minimum price variation above the locking price (in the event of a Resting Order offer) or one minimum price variation below the locking price (in the event of a Resting Order bid) in the event that an order submitted to the Exchange on the side opposite such Resting Order is a market or limit order priced more aggressively than the locking price.[25] This behavior is substantially similar to the order handling functionality described in the Resting Order Execution Filing, with one difference being that securities priced below $1.00 will execute at one full minimum price variation above (below) the locking price for offers (bids) rather than one-half minimum price variation above (below) the locking price for offers (bids) in securities priced at or above $1.00. While the example above shows a scenario in which only the Resting Order will receive $0.0001 of price improvement, rather than each side of the transaction as is the case in the scenarios described in the Resting Order Execution Filing, the Exchange notes that if Order 3 in the example above was entered at any price more aggressive than $0.5001, Order 3 would continue to execute against Order 1 at a price of $0.5001 and Order 3 would receive price improvement equal to the difference between its limit price and $0.5001.[26]

The Resting Order Execution Filing specifically introduced order handling behavior that would permit Resting Orders to be executed at one-half minimum price variation above (below) the locking price when an incoming, marketable offer (bid) would otherwise be prevented from executing due to the presence of a BZX Post Only Order in order to optimize available liquidity for incoming orders and to provide price improvement for market participants.[27] This change to order handling behavior was required because, if incoming orders were allowed to execute against Resting Orders at the locking price, such incoming order would receive a priority advantage over the resting, displayed order at the locking price, contrary to the Exchange's priority rule, Rule 11.12.[28] The Exchange recognizes that the order handling behavior for securities priced at or above $1.00 described in the Resting Order Execution Filing results in price improvement for both sides of an affected transaction and the Exchange's proposed order handling change will result in $0.0001 of price improvement only for the Resting Order, however this situation is limited to instances where

[18] *See* Rule 11.9(g)(1)(A). An order eligible for display by the Exchange that, at the time of entry, would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation of an external market will be ranked at the locking price in the BZX Book and displayed by the System at one minimum price variation below the current NBO (for bids) or to one minimum price variation above the current NBB (for offers) (''display-price sliding'').

[19] The Exchange notes that the reference to ''temporarily'' is meant to convey that for so long as the NBB is locked, Order 1 will be displayed at a price of $0.5001 pursuant to Rule 11.9(g)(1)(A)(i). In the event that the NBB moves so that Order 1 is no longer locking the NBB, Order 1 will be displayed at the most aggressive permissible price. See also *Rule 11.9(g)(1)(A)(ii).*

[20] *Id.*

[21] *See* Rule 11.9(g)(1)(E).

[22] *See* Rule 11.9(b)(1). An ''IOC'' order is a limit order that is to be executed in whole or in part as soon as such order is received. The portion not executed immediately on the Exchange or another trading center is treated as cancelled and is not posted to the BZX Book.

[23] Orders subject to NMS price sliding (''display-price sliding'') that are temporarily slid to one minimum price variation above (below) the NBO (NBB) will consist of a non-displayed ranked price that is equal to the locking price while simultaneously showing a displayed price that is one minimum price variation above (below) the NBO (NBB). Given that orders subject to display-price sliding contain a non-displayed ranked price in addition to the order's displayed price, the particular priority issue identified in the Resting Order Execution Filing with regard to Non-Displayed Orders is also present when an order subject to display-price sliding is resting on the BZX Book opposite a displayed order.

[24] *Supra* note 18.

[25] *See* 17 CFR 242.612 (''Minimum pricing increment''). Given that the minimum pricing increment for securities priced below $1.00 is $0.0001, the Exchange believes that allowing orders to execute at one minimum price variation above (for offers) or below (for bids) the locking price is appropriate, as requiring executions to occur at one-half minimum price variation above (for offers) or below (for bids) the locking price, which is the current behavior for securities priced at or above $1.00, would result in trades executing out to five decimal places, which is not supported by the System.

[26] For example, if all facts from Example 1 remain the same *except* that Order 3 is an IOC buy order entered with a limit price of $0.5005, then Order 3 will execute against Order 1 at a price of $0.5001 and receive $0.0004 of price improvement.

[27] *See* Resting Order Execution Filing at 28831

[28] *Id.*

the incoming order is entered at a price equal to the displayed price of the Resting Order. While only the Resting Order will receive $0.0001 of price improvement when an incoming order is entered at a price equal to the Resting Order's displayed price, the Exchange believes the incoming order is receiving the benefit of immediate execution rather than cancelling back or posting to the BZX Book (depending on User instruction), which will result in higher overall market quality and likelihood of execution on BZX for Users. In situations where the incoming order is entered at a more aggressive price than the displayed price of the Resting Order, however, each side of the transaction will be receiving at least $0.0001 of price improvement.

Without the proposed order handling change for securities priced below $1.00, a Resting Order may be priced at the very inside of the market at a price below $1.00 but temporarily unable to execute at its full limit price due to the Exchange's priority rule and current order handling procedures. The Exchange notes that by permitting a User's Resting Order to rest at a locking price opposite a displayed order and receive an execution against an incoming order that is priced equal to or more aggressively than the displayed price, the Exchange is incentivizing Users to post aggressively priced liquidity on both sides of the market, rather than discouraging such liquidity by leaving orders unexecuted. In addition, if the BZX Book changes so that such orders are no longer resting or ranked opposite a displayed order, then such orders will again be executable at their full limit price, and in the case of price slid orders, will be displayed at that limit price.

The Exchange is proposing a solution to address specific conditions that are present on the BZX Book when a BZX Post Only Order is displayed opposite the ranked price of orders subject to display-price sliding. The Exchange believes that such specific circumstances, without modification of Rule 11.13(a)(4), would be present upon the expansion of BZX Post Only Order functionality to securities priced below $1.00 and would result in Users receiving fewer executions than the Exchange could otherwise facilitate. The Exchange believes the proposed change to Rule 11.13(a)(4)(D) is substantially similar to the order handling modification proposed and ultimately approved by the Resting Order Execution Filing and does not introduce any novel order handling behavior that has not previously been proposed. While the Exchange is proposing to use a full minimum price variation rather than the one-half minimum price variation currently used for securities priced at or above $1.00 as detailed in the Resting Order Execution Filing, the minimum price variation proposed for securities priced below $1.00 is commensurate with the standard minimum pricing increment for securities priced below $1.00.

The Exchange believes the absence of price improvement for the incoming order is diminished by the incoming order's ability to receive an execution on the Exchange against the Resting Order, rather than receive a cancellation or be posted to the BZX Book (depending on User instruction). Further, the Exchange believes that Users who receive increased execution rates on BZX will be more likely to submit additional order flow to the Exchange. Additional increased order flow benefits all market participants by contributing to a deeper, more liquid market and provides even more execution opportunities for active market participants. Additionally, this difference is necessary due to System limitations that do not support executions out to five decimal places ($0.00001) in securities priced below $1.00, which would occur should the Exchange utilize the same minimum price variation described in the Resting Order Execution Filing. The proposal to amend Rule 11.13(a)(4)(D) is limited to certain circumstances that occur as a result of the presence of a BZX Post Only Order resting opposite a Non-Displayed Order or order subject to display-price sliding and is designed to optimize available liquidity for incoming orders.

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.[29] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[30] 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)[31] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange is proposing to expand its BZX Post Only Order functionality to securities priced below $1.00. In conjunction with expanding the ability to utilize BZX Post Only Orders at prices below $1.00, the Exchange also proposes that a Resting Order priced below $1.00 be permitted to execute at one minimum price variation above the locking price (in the event of a Resting Order offer) or one minimum price variation below the locking price (in the event of a Resting Order bid) in the event that an order submitted to the Exchange on the side opposite such Resting Order is a market or limit order priced more aggressively than the locking price. This change in order handling behavior is necessary in order to address specific conditions that are present on the BZX Book when a BZX Post Only Order is displayed opposite the ranked price of orders subject to display-price sliding. As discussed below, the Exchange believes its proposal is consistent with Section 6(b)(5) of the Act.

In particular, the proposal to amend Rule 11.9(c)(6) to permit orders priced below $1.00 to utilize BZX Post Only Order functionality promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of a free and open market and a national market system because it will allow Users to enter orders with a BZX Post Only instruction at any price, rather than being limited to securities priced above $1.00. The growth in trading of sub-dollar securities has expanded significantly since 2019 and as such, the Exchange believes that orders at all prices, not only securities priced above $1.00, should be permitted to utilize BZX Post Only Order functionality, which will permit orders to post on the Exchange without removing liquidity or routing to away to another trading center. BZX Post Only Orders allow Users to post aggressively priced liquidity, as such Users have certainty as to the fee or rebate they will receive from the Exchange if their order is executed. Without such ability, the Exchange believes that certain Users would simply post less aggressively priced liquidity, and prices available for

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

[31] *Id.*

market participants, including retail investors, would deteriorate. Accordingly, the Exchange believes that BZX Post Only Orders enhance the liquidity available to all market participants by allowing market makers and other liquidity providers to add liquidity to the Exchange at or near the inside of the market. Indeed, such market participants have asked the Exchange to implement such functionality in order to permit them to utilize a single trading strategy across securities at all prices. Allowing BZX Post Only Orders to be utilized at prices below $1.00 will deepen the Exchange's pool of available liquidity in sub-dollar securities, which is a growing area of trading, particularly for retail investors. A deeper and more liquid market supports the quality of price discovery, promotes market transparency, and improves market quality for all investors. The Exchange does not believe that the proposed amendment to Rule 11.9(c)(6) is unfairly discriminatory as it will permit the BZX Post Only Order type to be used by all Users at any price and the order type will no longer be limited to securities priced at or above $1.00.

Similarly, the proposal to amend Rule 11.13(a)(4)(D) to allow, under limited circumstances, a Resting Order priced below $1.00 that would otherwise be non-executable due to the presence of a BZX Post Only Order to execute at one minimum price variation above (below) the locking price upon the receipt of an incoming, marketable offer (bid) that would otherwise be prohibited from executing due to the presence of a BZX Post Only Order promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of a free and open market and a national market system because it extends functionality currently available to orders priced at or above $1.00 to orders priced below $1.00, with a slight difference in the minimum price variation to account for the System's inability to display orders out to five decimal places ($0.00001). The proposed amendment to Rule 11.13(a)(4)(D) is substantially similar to the order handling behavior change that was proposed (and later approved) by the Resting Order Execution Filing and will only serve to improve execution quality for participants sending orders to the Exchange.

The Exchange does not believe that the treatment of sub-dollar securities is unfairly discriminatory as the Exchange will be using the standard minimum pricing increment for sub-dollar securities in order to determine the price at which the Resting Order is eligible to execute.[32] While the Exchange recognizes that under its proposal for securities priced below $1.00 results in a limited situation in which only the Resting Order will receive $0.0001 of price improvement (*i.e.,* when an incoming order is entered at the same price as the displayed price of the Resting Order), the Exchange believes the incoming, contra-side order is receiving the benefit of immediate execution rather than cancelling or posting to the BZX Book (depending on User instruction), which will result in higher overall market quality and likelihood of execution on BZX for Users. In situations where the incoming order is entered at a more aggressive price than the displayed price of the Resting Order, however, each side of the transaction will be receiving at least $0.0001 of price improvement, which is substantially similar to how the order handling functionality works for securities priced at or above $1.00. The Exchange believes the proposed change to execute marketable orders that are currently not executed under specific scenarios will help provide price improvement to Resting Orders that, in these limited circumstances, otherwise would not receive an execution even though their order is priced at the inside of the market and would also provide increased execution opportunities to aggressively priced incoming orders rather than requiring these orders to be cancelled or post to the BZX Book. Thus, the Exchange believes that its proposed order handling process in the limited scenario where a Resting Order is ineligible to execute due to the presence of a contra-side BZX Post Only Order will benefit market participants and their customers by allowing them greater flexibility in their efforts to fill orders and minimize trading costs.

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 intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change to Rule 11.9(c)(6) will apply equally to all Users in that all Users will be eligible to utilize the BZX Post Only Order for securities priced below $1.00. Similarly, the proposed change to Rule 11.13(a)(4)(D) applies equally to all Users in that all Resting Orders will benefit from the proposed order handling behavior change that will execute Resting Orders at one minimum price variation above (below) the locking price upon the receipt of a marketable offer (bid) should a Resting Order be ineligible to execute due to the presence of a contra-side BZX Post Only Order. The proposed changes are designed to expand an existing Exchange order type and existing order handling behavior to securities priced below $1.00 due to the growth in sub-dollar trading that has been seen since 2019. Further, the Exchange does not believe that Users submitting incoming, contra-side orders are burdened by virtue of not receiving price improvement in limited situations as they instead receive the benefit of an immediate execution as opposed to being cancelled back to the User or posting on the BZX Book which results in increased overall market quality and a higher likelihood of execution on BZX.

The Exchange similarly 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. In fact, the Exchange notes that other exchanges already offer the ability to submit an order that is not eligible for routing to away markets and posts to the relevant exchange book at prices below $1.00.[33] The Exchange believes its proposal to expand the use of the BZX Post Only Order to securities priced below $1.00 will promote competition between the Exchange and other exchanges for volume in sub-dollar securities. Furthermore, the Exchange believes its proposal will promote competition between the Exchange and off-exchange trading venues, where a significant amount of sub-dollar trading occurs today.[34] The Exchange similarly believes that its proposal to amend its order handling behavior in limited circumstances where a Resting Order cannot execute due to the presence of a contra-side BZX Post Only Order does not impose a burden on intermarket competition as the change is not designed to address any competitive issue, but rather to address order handling behavior in a substantially similar manner to how the Exchange treats Resting Orders priced at or above $1.00 in the limited scenario where a Resting Order is ineligible to execute against an incoming, marketable order due to the presence of a contra-side BZX Post Only Order.

[32] *Supra* note 25.

[33] *See* Nasdaq Equity 4, Rule 4702(b)(4) (''Post-Only Order''). *See also* NYSE Rule 7.31(e)(2) (''ALO Order'').

[34] *See* ''Off-Exchange Trends: Beyond Sub-dollar Trading'' (May 17, 2023). Available at *https://www.cboe.com/insights/posts/off-exchange-trends-beyond-sub-dollar-trading/.*

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2024–006 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–CboeBZX–2024–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2024–006 and should be submitted on or before February 20, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–01618 Filed 1–26–24; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Share Flexibility Pilot Program

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The FHWA is announcing a pilot program to enable, on an experimental basis, a State department of transportation (State DOT) to determine the Federal share on a project, multi-project, or program basis for projects under certain specified programs. The Federal Share Flexibility Pilot (Pilot) Program will be carried out until September 30, 2026.

DATES: Applications must be received by March 29, 2024.

ADDRESSES: All application materials should be emailed to *FSPPP@Sharepointmail.dot.gov* or mailed attention to Rhonda Shaffer, Federal Highway Administration, Room E62–332, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Parker, Senior Program Analyst, Office of Financial Management, (801) 955–3518, *Danial.Parker@dot.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the Office of the Federal Register's home page at: *www.federalregister.gov/* and the Government Publishing Office's web page at: *www.gpo.gov/fdsys/.*

Background

The Federal-aid highway program is a federally funded, State-administered program, under which State DOTs are responsible for determining which projects are federally funded. Projects are authorized and federally funded up to the maximum Federal share as authorized in statute. Section 11107 of the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58), amended section 120(l) of title 23, United States Code (U.S.C.) to require the establishment of a Pilot Program not later than 180 days after the date of enactment of the BIL. In accordance with 23 U.S.C. 120(l), selected States in the Pilot Program are allowed to determine the Federal share on an individual project that is more than 0 percent and up to 100 percent as long as the average annual Federal share of all participating projects does not exceed the average of the maximum Federal share of those projects if those projects were not carried out under the Pilot Program. The following guidelines have been established for the Pilot Program:

(a) Up to 10 State DOTs may participate in the Pilot Program.

(b) The Pilot Program will expire on September 30, 2026.

(c) The Federal share will be determined based on the following criteria:

(1) Determined based on project, multiple projects, or program basis.

(2) Maximum Federal share for an individual project under the Pilot Program is 100 percent.

(3) Minimum Federal share for an individual project under the Pilot Program is greater than 0 percent (*i.e.,* any project authorized under the Pilot Program cannot be 0 percent).

(4) The average annual Federal share of the total cost of all projects authorized under this Pilot Program shall not exceed the average of the maximum Federal share of those projects if those projects were not carried out under the Pilot Program.

(d) State DOTs participating in the Pilot Program may determine the Federal share on a project, multiple-project, or program basis for projects under any of the following programs:

(1) National Highway Performance Program (23 U.S.C. 119).

[35] 17 CFR 200.30–3(a)(12).

(2) Surface Transportation Block Grant (23 U.S.C. 133).

(3) Highway Safety Improvement (23 U.S.C. 148).

(4) Congestion Mitigation and Air Quality Program (23 U.S.C. 149).

(5) National Highway Freight Program (23 U.S.C. 167).

(6) Carbon Reduction Program (23 U.S.C. 175).

(7) Subsection (c) eligible activities of the Promoting Resilient Operations for Transformative, Efficient, and Cost saving Transportation Program (23 U.S.C. 176).

(e) Participating State DOT Requirements:

(1) Submit an application in accordance with the instructions below.

(2) Have in place adequate financial controls to allow the State to determine the average annual Federal share requirements under the Pilot Program.

Objectives of the Pilot Program

The objectives of the Pilot Program are to:

(1) Determine if State DOTs experience efficiencies in connection with oversight of projects and determining the Federal share amounts on a project, multi-project, or program basis.

(2) Determine whether this innovative approach helps State DOTs deliver Federal-aid highway projects with more efficiency and effectiveness.

(3) Assess whether this approach helps FHWA realize process efficiencies through flexible Federal share amounts.

Pilot Program Description

The Federal-aid highway program supports States by providing financial assistance for the design, construction, preventive maintenance, and other federally eligible costs associated with about 25 percent of the 3.9 million mile highway network of the United States, which includes the Interstate Highway System and the National Highway System, as well as primary highways and other major collector roads. Federal funds and obligation authority are distributed to the State DOTs, which act on behalf of the States in accordance with 23 U.S.C. 145, 302, and 23 Code of Federal Regulations (CFR) 1.3. The Pilot Program will test the impact of flexible Federal share funding on project delivery efficiency and effectiveness.

Application and Submission

In accordance with 23 U.S.C. 120(l)(2)(C)(i), applications must include the information below. Incomplete applications will not be considered. The FHWA may ask any applicant to supplement data in its application but expects the applications to be complete upon submission. The FHWA will expect State DOTs to provide additional information described in the participant selection section, if requested. Applications must include the following information for it to be considered for the Pilot Program:

Title page: The title page must include the State DOT's name, address, Federal program funding size, total program funding size (Federal plus other), and primary point of contact for the Pilot Program.

Structure: The State DOT must show its organizational structure and clearly articulate how its organizational structure is adequately staffed and suitably equipped to administer this Pilot Program.

Narrative: The narrative must include and address the following:

(1) Describe and quantify how participation in the Pilot Program will accelerate project delivery and improve efficiency and accessibility to the benefits derived from the Federal-aid highway program, generally and specifically regarding program administration in the applicant's State. The benefits discussion must address the anticipated overall program and project delivery cost and scheduled savings. The State DOT should identify administrative impediments or delays associated with the current project delivery and oversight process that would be modified or eliminated under the Pilot Program.

(2) Describe and quantify how participation in the Pilot Program will provide added value to the State DOT, FHWA, project delivery and the communities served by the transportation projects.

(3) Describe how the State DOT will evaluate the effects of applicable Federal-aid project delivery requirements on the State DOT's project delivery capacity under the Pilot Program. In doing so, the State DOT should consider comparing the costs and efficiency of project delivery using historical information under the authorized Federal share requirements and using the Pilot Program flexibilities.

Certification: A certification statement that the State DOT has the capacity and internal control to administer the Pilot Program in accordance with the applicable requirements including adequate financial controls to allow the State to determine the average annual Federal share requirements under the Pilot Program.

This information collection has been approved by Office of Management and Budget (OMB) under #2125–0670. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Application Review and Selection

This section outlines the process and factors that FHWA will use to evaluate and select applicants to participate in the Pilot Program. The FHWA will use the following rating factors, each of which is of equal importance, for the selection of Pilot Program participants.

Rating Factors

(1) Anticipated project delivery cost savings.

(2) Anticipated project delivery time savings.

(3) Added value of the proposed approaches to the State DOT, FHWA, project delivery and the communities served by the transportation projects (*e.g.,* fosters effective and efficient stewardship and oversight as well as integrity of the Federal-aid Highway Program funds; promotes sustainability; or captures higher impact opportunities).

(4) Evaluation of the State DOT's financial management (*i.e.,* accounting) and project delivery systems in accordance with 23 U.S.C. 106(g)(2)(A) and (g)(3).

(5) Compliance assessment of the State DOT's financial controls and project delivery program in accordance with government-wide requirements in 2 CFR 200.302–303.

After determining eligibility, FHWA will evaluate proposals and make selections using the rating factors described above to determine the applications that are in the best interest of FHWA. The FHWA will then select the State DOTs eligible as Pilot Program participants. The FHWA will accept proposals throughout the duration of the Pilot Program.

Performance of Pilot Program Participants

A State DOT selected to participate in the Pilot Program will assume responsibility for compliance with all procedural and substantive Federal requirements as would apply to the Pilot Program. These requirements include Pilot Program specific reporting, regular Federal-aid reporting, construction administration, financial administration, performance management, and all other applicable Federal requirements, unless FHWA determines that such assumption of responsibility for one or more of the

procedural or substantive requirements is not appropriate. Each State DOT selected for the Pilot Program must work with FHWA to develop and implement a plan to collect information and report on the State DOT's performance with respect to the relevant objectives outlined in the Pilot Program.

Each participating State DOT will enter into a memorandum of agreement (MOA) with FHWA. The MOA will require the State DOT to provide to FHWA any information that FHWA considers necessary to ensure that the State DOT carries out the requirements of the Pilot Program. The MOA shall not extend beyond September 30, 2026.

To ensure compliance with the Pilot Program by participating State DOTs, FHWA may conduct audits, reviews, and assessments during the Pilot Program. Such audits will be in addition to any of FHWA's other stewardship and oversight responsibilities relating to the Pilot Program, as well as any other projects or other activities carried out under the Pilot Program.

The FHWA will assess the partnership developed under this Pilot Program in accordance with existing requirements. The FHWA may terminate a MOA with State or a Pilot Program within a State at any time for failure to comply with requirements of 23 U.S.C. 120(l) or for any reason consistent with 2 CFR 200.339, including, but not limited to, inadequate performance or resources to administer the Pilot Program. The participating State DOT may also terminate the Pilot Program upon FHWA's receipt of a 90-day notice from a State DOT.

Authority: 23 U.S.C. 120(l); Sec. 11107, Pub. L. 117–58, Stat. 459.

Shailen P. Bhatt,

Administrator, Federal Highway Administration.

[FR Doc. 2024–01696 Filed 1–26–24; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Enforcement, Compliance & Analysis, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*ofac.treasury.gov*).

Notice of OFAC Action(s)

On January 22, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

BILLING CODE 4810–AL–P

Individuals

1. AL-SHABBANI, Basheer Abdulkadhim Alwan (a.k.a. AL-SHABANI, Bashir Abd al Kazim Alwan; a.k.a. ALSHABBANI, Basheer; a.k.a. SHABBAN, Basheer), Baghdad, Iraq; DOB 01 May 1986; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A14930891 (Iraq) expires 27 Jan 2027; alt. Passport A9836915 (Iraq) expires 19 Aug 2024; National ID No. AA2889593 (Iraq) expires 21 Oct 2026 (individual) [SDGT] (Linked To: FLY BAGHDAD AIRLINES COMPANY).

   Designated pursuant to section 1(a)(iii)(B) of Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism," 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041 (E.O. 13224, as amended), for owning or controlling, directly or indirectly,, FLY BAGHDAD AIRLINES COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. AL-AZZAWI, Riyadh Ali Hussein, Baghdad, Iraq; DOB 07 Jun 1976; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A14704969 (Iraq) expires 02 Dec 2026 (individual) [SDGT] (Linked To: KATA'IB HIZBALLAH).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, KATA'IB HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. AL-HAMIDAWI, Awqad Muhsin Faraj (a.k.a. AL-HAMADAWI, Aogad Mohsin Faraj), Baghdad, Iraq; DOB 03 Feb 1982; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A10361950 (Iraq); alt. Passport A13384189 (Iraq) expires 26 May 2026; National ID No. AG2915616 (Iraq) expires 29 Jan 2028 (individual) [SDGT] (Linked To: KATA'IB HIZBALLAH).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, KATA'IB HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. AL-'IBUDI, Hossein Moanes (a.k.a. AL-'IBUDI, Husayn Mu'nis; a.k.a. MOANES, Hossein), Baghdad, Iraq; DOB 24 Oct 1971; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order

13886; Passport A17308762 (Iraq) expires 10 Dec 2027 (individual) [SDGT] (Linked To: KATA'IB HIZBALLAH).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, KATA'IB HIZBALLAH, a person whose property and interests in property are blocked pursuant to E.O. 13224.</EXTRACT>

Entities

5. FLY BAGHDAD AIRLINES COMPANY (a.k.a. FLY BAGHDAD (Arabic: فلاي بغداد); a.k.a. IRAQ EXPRESS), Hurriya Square, Building 66, Street 25, Sector 925, Babil Neighborhood, Baghdad, Iraq; Jamia Street, Jadriya, Baghdad, Iraq; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2014; Organization Type: Passenger air transport [SDGT] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC REVOLUTIONARY GUARD CORPS-QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

6. AL-MASSAL LAND TRAVEL AND TOURISM COMPANY (a.k.a. ARD AL-MUSAL COMPANY FOR TOURISM AND TRAVEL LLC), Property Number 20362/4, Street 7, Sector 714, Zayuna, Baghdad, Iraq; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2014; Organization Type: Travel agency activities [SDGT] (Linked To: AL-HAMIDAWI, Awqad Muhsin Faraj).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, AWQAD MUHSIN FARAJ AL-HAMIDAWI, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.</PHOTO>

On January 22, 2024, OFAC also identified the following aircraft as property in which a blocked person has an interest, under the relevant sanctions authority listed below:

Aircraft

1. YI-BAF; Aircraft Manufacture Date 24 May 2002; Aircraft Model B 737; Aircraft Operator Fly Baghdad; Aircraft Manufacturer's Serial Number (MSN) 32412; Aircraft Tail Number YI-BAF; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (aircraft) [SDGT] (Linked To: FLY BAGHDAD AIRLINES COMPANY).

   Identified pursuant to E.O. 13224, as amended, as property in which FLY BAGHDAD AIRLINES COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

2. YI-BAN; Aircraft Manufacture Date 08 Jan 2008; Aircraft Model B 737; Aircraft Operator Fly Baghdad; Aircraft Manufacturer's Serial Number (MSN) 35064; Aircraft Tail Number YI-BAN; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (aircraft) [SDGT] (Linked To: FLY BAGHDAD AIRLINES COMPANY).

Identified pursuant to E.O. 13224, as amended, as property in which FLY BAGHDAD AIRLINES COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended, has an interest.

Dated: January 22, 2024.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2024–01657 Filed 1–26–24; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

This notice is provided in accordance with IRC section 6039G of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary received information during the quarter ending September 30, 2023. For purposes of this listing, long-term residents, as defined in section 877(e)(2), are treated as if they were citizens of the United States who lost citizenship.

Last name	First name	Middle name/initials
ABRAMS	BRIDGETTE	SHELLEY
ADAMS	COLIN	JAMES
ADSHEAD	ANDREW	PETER
AHMADI	RASOOL	ALI KHALIL
ALBAIR	MARTIN	DIETMAR
ALBERTI	ESTHER	ELAINA ANNE
ALBRECHT	ALINA	CELIA REBECCA
AL-DEGHAITHAR	HOSSA	MOHAMMAD
ALEXANDER	DONA	SUZANNE
ALFA	HANNA	ABOU
ALFRED	GERALD	ROBERT
ALICK	JUSTIN	HAMEED
ALLEN	ANTHONY	LEE
ALLEN	CAREY	THOMAS
ALLEN	DAVID	HAMISH
ALLENSPACH	ERIC	JACQUES
ALLENSPACH-BOLLER	MARIANNE	
AL-SHAKARCHI	HEBA	MAZIN
ALVAREZ REDONDO	JORGE	
ANDERSON	FRASER	DUNCAN
ANDRIEJANSSEN	PAULINE	
ANG	MARK	ADAM TECSON
ANGUS	CATHERINE	
AOYAMA	TAKASHI	
APPS	SYLVANUS	CAMERON
ARMSTRONG	LOUISE	MARY PAULE
ARORA	PUNAM	RAJEEV
ARSCOTT	SIMON	N
ASTACIO	DORA	
ATHUR	VARADAN	THIRUMALACHARY
ATKINSON	DIANE	LYNN
ATMADJA	STIBNIATI	SOERIA
AU	TONY	KING TUNG
AUBIN	FRANCINE	
AUINGER	CHRISTIAN	NICHOLAS
BACLIG	CHRISTOPHER	JOHN
BAGGETT	MALIA	
BAILEY	TERESA	MARIE
BAILLIE	GIGINA	VERA
BAKER	JOANNA	MARY
BALETKOVA	MARTINA	
BANERJEE	SHEETAL	MEHTA
BANFI	NATALIA	IRMIN EDITH

Last name	First name	Middle name/initials
BARAC	CHRISTOPHER	KUZMAN
BARAC-HEATH	JOY	LEILANI
BARBELLION	WENDY	COULSON
BARRETTE	RAYMOND	
BASSA	DAVID	
BAUCH	JONATHAN	
BAXTER	SUZANNE	MICHELE
BAYLISS	HEATHER	THERESA
BAYRAMOV	ELVIN	
BAYRAMOVA	ANNA	
BAZIN	OLIVIER	WILLIAM
BEARSS	CAROLYN	LEE
BEELITZ	NINA	ISABELLE
BEEMER	NATHAN	EUGENE
BELANGER	ERIC	JOSEPH JEAN
BELL	CHRISTINE	
BELLAVANCE	JEROME	YOUNG
BENBASSAT	GEORGE	
BENINI	CHERYL	LYNNE-ELIZABETH
BENNER	SEIJU	A LEXANDER
BENNETT	MICHAEL	ERIK CASEY
BENSON	DAWNE	ANDREA
BER	HEDVA	
BERARDI	JOHN	MICHAEL
BEREZIN	KATHLEEN	MARY
BERGER-PERRIN	SIMON	MARIE WINCENT
BERRIDGE	ERIK	
BHATTACHARYA	JANE	CALDWELL
BICHSEL	JOANNA	
BIEGEL	STEPHANIE	JESSICA
BIGGS	DIANA	COLLEEN
BIGNALL	THOMAS	GEORGE
BIONDA	JASON	
BLANKENSHIP	GARRET	GENE HUGO
BLANK-UNIKOSKI	ANNAT	
BLAUDIN DE THE	CATHERINE	MARIE-CHANTAL
BLIZZARD	ELIZABETH	ORDEMAN
BLOEM	CLAUDIA	ALICE
BLOMFIELD	ALEX	EDWARD
BLOMFIELD	HELEN	LAURA
BOEHLE	EVA	INGRID ADELHEID
BOIVIN	MICHELE	YUNG HEE
BOLAND	LOUISE	ELIZABETH
BOLES	SUZANNE	ALICA
BONIN	STEPHANIE	LOUISE
BOUCKAERT	CHARLES	ARTHUR MARIE CARL
BOWERS	BRETT	LAWSON
BRANAGAN	GREGORY	PAUL
BRESKI-THOMPSON	LARS	
BRESKI-THOMPSON	OTTO	
BRETON	JONATHAN	
BRIDGES	ANNA	EMILIA
BRIDGES	TRACEY	GRAINGER
BRIGANTE	DAVID	PROSPERO
BRIGGS	SHARLENE	ISOBEL
BRINER	ALBERT	FELIX
BRODERICK	TERESA	MARGARET
BRODEUR	HELEN	DONALDA
BRODHEAD	DANIEL	EDGAR
BROMLEY	FREDERICK	ARTHUR
BROOKSHIRE	MICHAEL	JOHN
BROWN	COLLIN	JOHN
BROWN	MARSHA	KAY
BROWN	REBECCA	SUE
BROWN	ROBIN	LYNN
BROWN	VICENT	OLAF DAVID
BROWNE	COLLEEN	HAZEL
BRUCE	CARY	ALAN
BRYDEN	PAMELA	JOANNA
BUCH	MICHELLE	ELAINE
BUCHANNAN	WILLIAM	TAYLOR REID
BUCHWALD	HEIDE	MORGAN
BUCKALEW	JASON	ALLEN
BUNKER	STEPHEN	DEREK

Last name	First name	Middle name/initials
BURDETT	ANDREW	COLIN
BURGESS	ROBERT	GORDON
BURTON	ALEXANDER	SASHA
BURTON	JOLYON	DAVID
BURY	CHRISTINA	ROOTH
CAMPBELL	SANDRA	MARY
CAMPLING	JULIE	ELISABETH
CANDY	LYNNE	CATHERINE
CAO	PATRICK	MINH
CAPORALE	MARCO	
CARBINI	LAURA	
CARBONNEAU	DANIELLE	AIMEE
CAREY	ISABEL	ELEANOR CLEMENTE
CARINI	CAROL	EILEEN
CARLSEN	TOM	
CARVALHO	JOSEPH	ANTHONY JEAN PAUL
CARVALHO	RINA	MAREE
CASSAR	GEORGINA	PORTELLI
CASSIANO	LUISA	SCHERTAL
CASTLEDINE	ANNABEL	JEAN KILLEN
CELESTINO	TIAGO	DI PIERRO
CHADWICK	TERENCE	HARRY
CHAN	EDDIE	TAK HO
CHAN	ELEANOR	WAI KWAN
CHAN	JESSICA	LAI TONG
CHANDLESS	HELOISE	CHRISTIANE
CHANG	MEE	JA
CHANG	YU	SHAN
CHAO	WILLIAM	TZE TSUNG
CHAPMAN	JULIA	ELIZABETH
CHARALAMBOUS	MICHAEL	YIANNAKI
CHARLES	CATHERINE	GRAHAM
CHARLES	THOMAS	RITCHIE
CHAUDHRY	SOPHIA	
CHEIKES	STEPHEN	GEORGE
CHEN	CHARLES	YUAN LIANG
CHEN	CHRISTINE	
CHEN	IRENE	LI
CHENARD	JESSE	RAY
CHENG	DAVID	
CHILTON	ADAM	DYLAN
CHISHOLM	ROBYN	MICHELLE
CHIU	SEEN	YUN SHARON
CHNG	TZE	PING
CHO	ALBERT	SOO CHANG
CHO	EUN	EUI
CHO	JOON	YEON
CHOI	JEONG	JOON
CHRISTIAN	DANIEL	ANDREWS
CHRISTIAN	KATHLEEN	ANDREWS
CHRISTIAN	SARAH	ANDREWS
CHRISTOFFERSEN	SKYLAR	JAMES MICHAEL
CHRISTOPHER	PER	A
CHUANG	STEVE	TZU HSIUNG
CHUN	JENNIFER	
CIPOLLA	JOHN	MATTHEW
CLARKE	KIRSTEN	MARIE
CLARKE	SHELLEY	CATHERINE
CLARKE	STEVEN	RONALD
CLARKE	STUART	CHARLES
CLEGG	SUSAN	MICHELLE
CLENDENNING	JOANNE	ANNE
CLINESMITH	JESSICA	ELAINE
CLOTHIER	KAREN	
COBB-CLARK	BRETT	WILLIAM
COBB-CLARK	DEBORAH	ANN
COBURN	SALLY	LOUISE
COELHI-RUEGG	MELINDA	BETH
COHEN	DANIELLE	KAREN MARCHANT
COLES	ELIZABETH	JOSEPHINE
COLLEDGE	BROOKE	SARAH
COLLEDGE	MARCUS	MICHAEL
COLLEDGE	SHAYNE	SKYE
COLLEY	ROBERT	LAWRENCE

Last name	First name	Middle name/initials
CONDON	WARREN	JUDE
CONNELL	LISA	ANN
COOK	SIMON	ASHLEY
COOK (VAN TIL)	SHANNON	LEE
COPLEY	ERICA	AMY
COPP	ROSALIND	CHRISTINA
CORACE	JEFFREY	MICHAEL
CORNELISSEN	ERIK	JOHANNES
CORNELISSEN	MAUD	ANNEMARIE WILLEMIJ
CORNELISSEN NOOREN	EDITH	CORNELIA ANNA
CORNIES	GRAEME	ALEXANDER
COTTER	SUZANNE	MARY
COWAN	JENNIFER	LOUISE
COWPE	PENELOPE	ANNE
CRAMER	PAUL	HENRY
CRAWFORD	RAYNA	ELIZABETH
CRAWSHAW	ROBERT	BARNABY
CRELIER	REGIS	BERNARD JOSEPH
CROCKETT	PHILIP	DAVID
CROCKETT	SARAH	ELISABETH
CROLL	ANDREW	RICHARD
CROSS	THOMAS	SAMUEL
CZARNECKI	JOLENE	HEATH
D'AILLY	ANTOINE	JEAN
DALLENBACH	KIRAN	FAROOKI
DAR	RONEN	
DAVIDSON	ANDREW	GEORGE
DAVIDSON	JAMES	EARL
DAVIDSON	MIRIAM	ELLEN
DAVIS	DANIEL	ROBERT
DAVIS	SARAH	MARGARET
DAWDY	KATHY	SUE
DAY	JANE	HELENA
DE MATTHAREL	LEILA	STEPHANIE
DE NAGRI	LILIANA	O
DEIBERT-ESDERS	MARC	JOSE
DELIGIANNIS	KONSTANTINOS	ANASTASIOU
DEMELIER	TAMMY	
DEMUS	CARSTEN	OLIVER
DENCK	MICHAEL	ALEXANDER
DERICI	SALIH	
DESHPANDE	ADVAIT	BGHARAT
DEUTSCH	DAVID	MICHAEL JAMES
DEWOLFE	CHRISTIAN	PAUL
DI BERARDINO	ANDREA	
DI TOMASSO	MARIA	
DIGNAM	ERIKA	LEE
DIONNE	SARAH	JOYCE MARGARET
DIR	RODNEY	DALE
DIXON	ANDREW	MASON
DOMANKO	ROBERT	STEVEN
DONALDSON	EMILY	GRACE
DONLON	BRENDAN	MARK
DOODY	DALE	KATHRINE
DOOLEY	JESSICA	DUNN
DORN	MELINDA	LUE
DOTRO	SAMUEL	ANTHONY
DOUET	ELIZABETH	ANN
DOUGLAS	ANN	CHOWN
DOYLE	SHEELAGH	PAULINE MARY
DRUMMONDS	SCOTT	BRADY
DRYLAND	SEAN	PATRICK ALFRED
DU PREEZ	CLAIRE	LOUISE
DUBE	STEPHEN	ROGER
DUBOIS MASTERS	CAMILLE	ALIX
DUMONT	PETER	JOHN
DUNANT	JOEL	ALBERT
DUNNING	PAULA	MAE
DURKOVIC	JOEL	ENDRES
DZIUBA	CARTER	JORDAN
E	SHUBIN	
EATON	DEBORAH	LYNN
EATON	JENNIFER	ELAINE
EATON	NANCY	ANN

Last name	First name	Middle name/initials
EATON	NATHANIEL	CHARLES
ECKARD	CHRISTOPHER	ALAN
EDEY	HILARY	ANNE
EDIGER	LORIE	SUSAN
EGGER	PATRICIA	CELINE
EGNOT	LESLIE	JEAN
ELBERG	DORIT	
ELBERG	GERARD	
ELFRINK	WILLEM	PIETER
ELSASSER	LINDA	SUSAN
ELSNER	CLAUDIUS	CONSTANTIN
EMARA	BASEM	
ENGEL	TIM	BENJAMIN
ENGELS-PETERSEN	ERIKA	
ENGMAN	SHELLEY	ANN
FALCIOLA	VERONIQUE	RAPHAELLE
FAWCETT	ADAH	LAURINE
FEDDEMA	DIANA	LYNN
FENWICK	JULILE	HART
FERGUSON	MARIE	HORIKIRI
FILART	ROSHELLE	ANGELIE
FILINA	ANNA	EVGENIEVNA
FINCH	HEATHER	RENEE
FINLAYSON	SARA	JOY
FIPPS	KYLIE	JENAE
FISCHBACH	MARTINA	MARIA
FISCHBACH	PETER	PAUL
FLEURENT	ALESSANDRA	ELISABETH
FLOYD	RUTH	RINDLER
FLOYER	CHARLOTTE	ELEANOR
FLOYER	PHOEBE	JANE
FOCARDI	RACHELE	
FOLEY	ALICIA	NICOLE
FOLKARD	SHEILA	ANN
FORCELLA	MARCO	MARIO
FORD	DYLAN	AVERY
FORRESTER	STEWART	RITCHIE
FORSTERMANN	DOMINIC	PASCAL
FORWARD	JANE	KATHARINE
FOSTER	LORETTA	
FOWLER	ELLEN	FRANCES
FRADETTE	ALLISON	GAIL
FRAKES	TIMOTHY	JOHN
FRANK	RACHEL	LYNNE
FRANK	SIMON	GEORGE
FRASER	LELA	ANN FOURNET
FRETHEIM	TIMOTHY	DAVID
FROGGATT	SEAN	STEPHEN
FU	RONGHUI	
FU	ZHICHENG	
FUEGLISTALER	ELISABETH	
FUEGLISTALER	STEPHANIA	LARA
FUNK	MARILYN	SUE
GABEL	MANUEL	PASCAL
GAINES	RODNEY	PAUL
GALANTER	GARRI	
GALE	AMY	CATHERINE
GALLAGHER	KATHRYN	ANNE
GAMALETSOS	GEORGE	
GASKIN	EDEL	MARGARET
GATCLIFFE	GLENN	PATRICK
GAUTIER	ALEXANDER	CHRISTIAN
GEAGHAN	STEPHEN	BERNARD
GEBHARD-WOWERIES	DANIELA	SANDRA
GEIGER	HARTMUT	JOSEF GERHARD
GEISSLER	HELENA	LARA
GEMKOW	NICO	TOBIAS
GERANSKY	IDA	
GERRETSEN	EWOUD	
GIAMMINUTI	STEFANIA	BENEDETTA MARIA
GIARD	AMY	NARADATE
GIBBONS	ADRIAN	JOSEPH
GLAYSHER	PAUL	CHRISTOPHER FREDERICK
GLICK	MARIA	ELAINE

Last name	First name	Middle name/initials
GODFROY	TERRY	PATRICK ALLEN
GOHARA	HIROYUKI	
GOMME	CHRISTY	ANN
GOMME	STEVEN	GEORGE
GOODHART	ALEXANDER	JASON
GOODING	PRINZE	CARLOS
GORE	KARSTEN	BRADLEY
GORMAN	ALICE	MARIE
GORMAN	DANIEL	ALEXANDER
GOSS	RICHARD	HARVEY
GOSS	SHARON	ELIZABETH
GOTTNER	MICHAEL	JOHN
GRACE	SUSAN	ELIZABETH
GRANOFSKY	ANAIS	BROOKE
GRANT	DAVID	EDWARD
GRANT	JOSHUA	ALLEN
GRASSE	ALVIN	LOWELL
GREBENC	MATTHEW	ROBERT
GREEN	AMY	LOUISE
GREEN	DAVID	RALPH
GREEN	JERRY	RAY
GREEN	MARK	ANDREW
GRIESHABER-OTTO	JAMES	HART
GRIFFIN	TIMOTHY	ALBERT
GRIMSTON	GALLIA	SYLVIANNE ELEONORE
GRONDIN	CAROLINE	MONIQUE
GRONDIN	CLAUDE	MAURICE
GRONDIN	LUCILLE	MONIQUE
GRONDIN	MICHEL	JOSEPH
GUEDON	KATHLEEN	JILL
GULDNER	INGRID	JENNIFER
GUMBLETON	RICHARD	JAMES
GUPTA	AMIT	
GUPTA	MAYURI	DEVI
GUTOWSKI	CRAIG	WILLIAM
GUTOWSKI	LUKE	WILLIAM
GWYNN	OLIVIER	
HADDOCK	JANET	CAROLE
HAFIZOVIC	ESMA	
HAILPERIN	ISAAC	
HALDER	HEIDI	ADELE
HALDER	SVEN	PATRICK
HALEY-JONES	ELENE	TERESE
HALL	JAMES	WILLIS
HALLAS	RICHARD	PAUL
HALLE	MARK	
HALPERN	MICHELE	CLAIRE
HAMAOKA	KEN	
HANDA	KAZUKO	
HANKINS	ANDREW	HENRYROBERTS
HARAKAN	MOHAMMED	ADBULLA
HARMON	DAMON	
HARPER	IAN	EVERETT
HARPER	RAYMOND	THOMAS
HARRIS	GREGORY	J
HARRYMAN	DAVID	CRAIG
HASHIMOTO	TOMOMI	
HATTRICK	JEFFREY	WADE
HAUENSTEIN	ANNE	
HAUGHTON	ASHLEY	SUSAN
HAWKINS	REGINE	ANNE
HAWKINS	SARA	JOANNA
HAYDEN	ANNA	RACHEL FERERA
HAYMAN	TERENCE	MITCHELL
HAZELWOOD	KEITH	GLEN
HEALY	KRISTEN	ANDERSON
HEARMON	BRYNA	
HEAVER	JOAN	HAZEL
HEBERT	ROGER	PAUL
HEDDEN	YUKO	
HEEKS	LINDA	FRANCES
HEES	MARGIT	MARIA
HELLIESEN	MARTHA	KRISTIN
HELLYER	DANIEL	CHARLES

Last name	First name	Middle name/initials
HENDLER	AARON	LLOYD
HENNESSY	GAIL	ANNE
HERBERT	DONNA	FRANCES MCDURMAN
HERDMAN	DOLORES	LORENE
HERZ	MARKUS	HANS
HESSING-LEWIS	JEREMY	PAUL
HEYMAN	RICHARD	DAVID
HEYNEKAMP	MICHIEL	ROBERT
HEYNEKAMP	MOLLEY	LIN
HILL	KEVIN	JOHN
HILL	NANCIE	
HILLER	JULIA	CHRISTIANE
HIRAGA	AKI	
HIRAKAWA	JURI	
HIRAKAWA	KATSUNOBU	
HOFFMAN	DOROTHEA	M
HOFSTETTER	MARY	LOUISE
HOLLAND	GEOFFREY	ROBERT NICHOLAS
HOLLY	CHRISTOPHER	MICHAEL
HOLM	NAOMI	KAZUE
HOLMAN	DONALD	ROY
HOLST	WIEBKE	
HOPEWELL	JAMES	THOMASON
HOPKINS	MARY	HELEN
HOPKINS	TANYA	ANNE
HOPMANN	NIKLAS	KARL
HORMEL	PETER	
HOSKINS	CHRISTOPHER	WAYNE
HOUWER	SETH	CORNELIUS
HOVDEN	MARIE	KAADA
HOWLETT	HILLARY	ANNE
HOWLING	KENNETH	GEORGE
HSU	YUNG	WEI
HU	HSUAN	TEH
HUANG	ANGELA	CHIH WEN
HUANG	VICTORIA	
HUDGINS	JASON	LEE
HUNT	GAVIN	JOHN
HUNT	KAY	
HURAY	DWISANTI	HATMANTI
HURLEY	DANIEL	JOSEPH
HURST	MARTIN	STANLEY
HURTADO	MARTA	MARIA
HURTADO	PAULA	ISABEL
HUTCHINSON	JAMES	ALEXANDER
HYKIN	JENNIFER	BERRY
HYNDMAN	DIANA	LEE
IHARA	KIYOYUKI	
IHILCHIK	REBECCA	GABYE
INKEL	NANCY	THERESE
INVEISS	ALEKS	ANDRIS
IRWIN	AMANDA	MADELINE
ISHIDA	ATSUYA	MARTIN
ISHIMOTO	MICHI	
JAGOE	EVA	LYNN
JAIN	NIRMAL	
JANG	WONCHEOL	
JENKINS	IAN	MICHAEL
JENKINS	SIMON	SPENCER
JENSEN	BENEDIKTE	ELIZABETH
JENSEN	SUSAN	LYN
JI	SHENGJIAN	I
JI	XUHONG	
JOHNSON	KERRY	JOAN
JOHNSON	LARISSA	GABRIELLE
JOHNSTON	JUDITH	MARGARET
JOHNSTON	THOMAS	RICHARD
JONES	ANDREW	
JONES	ROBIN	LYNN
JONES	THOMAS	WITHELAW
JONES	DANIEL	MAURICE
JONES	LAURA	ELIZABETH
JOSE	DAVID	CHRISTIAN
JOSEPHSON	DAVID	BOYD

Last name	First name	Middle name/initials
JUHALA	ONNI	OLAVI
KAELIN	ALEXANDRA	TANJA
KAN	WING	SI K
KANASKI	MEGAN	ELIZABETH
KANDA	TOMOKO	
KAPUSTIN	JASMIN	
KATSANOS	FOTENE	T
KATSAOUNIS	ALEXIA	SOFIA
KATZ	JEFFREY	LAWDRIG
KAULFUSS	OLIVER	ERNST TOMASIC
KEARNS	MICHAEL	JAMES
KEENE	KEVIN	WILLIAM
KEIJZER ROLLET	ELISABETH	
KELLNER	ELIZABETH	ANN
KELLY	ROXEY	JENNIFER CHRISTIN
KENNEDY	KRISTY	JACKLYN
KENNEDY	RHOEN	GRACE
KENNEWELL	KATHRYN	MARIE
KERR	DEWANA	RAY
KEYNES	YASMINA	
KHALFAN	SHAIKHA	SAMEER
KHALFAN	SHARIFA	SAMEER
KHALILI	SHIRIN	FATIMA
KIEREN	DIANNE	KATHRYN
KIEREN	THOMAS	ERVIN
KILLION	SANDIYA	MARGERY LEILA
KILVERT	DAVID	CORY
KILVERT	KRISTA	
KIM	JI	TAEK
KIM	KYUNGMIN	
KIMPINSKI	BETH	ANN
KING	ELLEN	MEREDITH
KINOSHITA	KUNIO	
KIRBY	SHARON	ROSE
KIRSCHKE	NATALIA	CRISTINA
KITAJIMA	KAZUKO	
KITAJIMA	YUTAKA	
KITCHIN	LINDA	ANNE
KOBAYASHI	AKIKO	
KOCH	KEVIN	KIM
KOEHL	JAMI	FLORA
KOENIGSBERG	JOANNA	
KOGER	TIMOTHY	ROY
KOKSAL	HAKKI	CEM
KOLKER	MAGALIE	LOUISE
KOMOR	IMRE	MICHAEL RONE
KORTSCHOT	MARK	TIMOTHY
KOSTIUK	CHRISTINE	ALEXANDRA
KOVACHEFF	GREGORY	NICHOLAS
KOWALL	JESSICA	EADIE
KRAMER	LUCAS	DAVID VANDERFIELD
KRUGER	MAAIKE	
KRUM	MARTINA	BEVERLY
KUCZYNSKI	ELIZABETH	ANNE
KUDO	HIROKO	
KUO	RANDY	LUN-TING
KURNIAWATI	MELANI	
KUSHENOV	SERGEY	NALIBEKOVICH
LABEREE	JAMES	BRADY
LAGESTEE	LAURA	MICHELLE
LAING	PAMELA	LOUISE
LAJINESS	DANIEL	CHARLES
LAKE	TERESA	LOIS
LAMARE	DIANA	JEAN
LAMB	DAVID	PLAYTER
LAMBERT	ANDREW	BARRY
LAMIN	CHRISTOPHER	HOWARD
LAMPINEN	RIIKKA	MARJAANA
LANCELOT	JODI	DEBRA CLIMO
LANDRY	GREGG	EDWARD
LANDRY	JEAN	FRANCOIS
LANE	PATRIC	JOHN
LANG	GUNTHER	WOLFGANG
LANGAN	HEATHER	CATHERINE

Last name	First name	Middle name/initials
LANGLOIS	CLAUDE	SIMON
LANGLOIS	FRANCYNE	
LANNELONGUE LUGER	CORALIE	ANAIS
LARSEN	CHARLES	EMIL
LARSON	KENT	DUANE
LAVOIE	FREDRICK	ETIENNE
LAWSON	SARAH	LYNN
LEAKE	SHANNON	MARIANI
LEARMONTH	DONALD	BRUCE
LEASS	HERBERT	JONATHAN
LEBLANC	PAUL	JOSEPH
LEE	JAE	HONG
LEE	JUYEON	
LEE	SANDRA	LEE
LEITH	JORDAN	DANIEL
LENHOFF	LILLY	M
LENNY	JASON	JAMES
LENZ	DANIEL	LYNDON
LESSARD	CANDACE	HOPE
LEVAND	ERIKA	HELANI
LEVY	BARBARA	HODGE
LEVY	JULIEN	EDOUARD
LEWIS	PAULINE	MONICA
LEWKOWITZ	GIDEON	
LIANG	SU	CHI
LIAO	JUI-YEUN	PETER
LIAUW	TIFFANY	PEI-LING
LIECHTI	VERONICA	ISABEL
LIGHT	STEPHEN	JOSLIN
LIN	CHRISTOPHER	
LIN	KO	WEI
LINDLBAUER	BRIGITTE	
LINEHAN	DANIEL	
LINGENFELTER	SHARON	MARIE
LITTLEJOHNS	ANNE	VIRGINIA
LIU	CHEN	WEN
LIU	MING	
LIU	SHIRLEY	SHU-PING
LIZOTTE	PIERRE	PAUL
LLOYD-PRICE	SIMON	RHODRI
LOFFREE	TERESA	JEAN
LONG	MICHAEL	ALBERT
LONGNECKER	NANCY	ELLEN
LORME	KENNETH	J
LOUKOPOULOS	LOUKIA	D
LOVE	KIMBERLEY	LOUISE
LOW	CLARISSA	
LOWE	KENNETH	ROY
LOWE	PETER	JAMES
LOWE-HOLDER	MICHELLE	ANN
LU	CHU	LIN
LU	ON	SHING CHRISTOPHER
LUBEL HAUBENSAK	MIRIAM	ANGELICA LIANA
LUCHETTA	DAVIDE	
LUKJE	CARLEE	
LUNN	DAVID	PAUL
LUO	DONGYI	
LYNCH	EMMA	JANE
LYONS	GWENNY	SO
LYTLE	ANNE	LOUISE
MAC CLURE	MARIE ANNE	LYON
MACCHARLES	ADRIENNE	DANIELLE
MACDONALD	KRISTA	JANINE
MACEACHERN	NEIL	ALEXANDER
MACKAS	RENAE	HOLM
MACKAY	KRISTA	MALIA
MACKINTOSH	RUTH	ELIZABETH
MACKLIN	MICHAEL	BRIAN
MACLEAN	BEVERLY	ANN
MACRAE	DONALD	CORBETT
MADDOCK	DONNA	MATHES
MAGGIO	MARTIN	FEDERICO
MAHEUX	ANDRE	
MAHMUD	NADIR	

Last name	First name	Middle name/initials
MAHONEY	MICHAEL	K
MAHONY	LAURIE	ELIZABETH
MAHRT-SMITH	AMELIE	GABRIELE
MAHRT-SMITH	MELANIE	ANN
MAIER	ELIZABETH	RACHEL
MAIER	MICHAEL	PAUL
MAISTER	JACOB	ORIE
MANGILI	ALEXANDRA	
MANN	ANDREW	JOHN
MARA	LORENE	ELIZABETH
MARCHEBOIS	KATHRYN	DENISE
MARRIOTT	CHRISTOPHER	GILER BLACKDEN
MARSHALL	PETER	DENZELO
MARSTERS	DAVID	WADE
MARTIMBEAU	STEPHANIE	
MARTIN	DANIELLE	MELISSA
MARTIN	GREGORY	MICHAEL
MARZOLF	JULIE	DIANE
MASEK	SCOTT	AXEL ALAN
MASKENS	MATHILDE	NICOLE M
MASTERS	RYAN	
MATHIESON	KATHLEEN	ELAINE
MATSUO	CHIKA	M
MAUERSBERGER	GABRIELLA	ANN
MCARDLE	JOHN	PATRICK
MCCANN	MAUREEN	ELIZABETH
MCCORMICK	LINDSAY	ANNE
MCCOWAN	JESSICA	BARNUM
MCFADDEN	BETH	ANN
MCFADDEN	JEFFREY	WADE
MCFADDEN JR	JOHN	JOSEPH
MCFARLANE	MATTHEW	JAMES
MCGRATH	JOHN	MICHAEL
MCINNIS	PETER	STUART
MCKECHNIE	KEVIN	ABDREW
MCNAMEE	DEAN	DANIEL
MCQUEEN	LISA	LYNN
MCRAE	GARY	JAMES
MECLER	JASON	MATTHEU
MEHTA	SUSAN	ELIZABETH
MEISTER	TRETA	MARIE
MELCHER	MARK	RANDALL
MELDRIM	MICHAEL	JOHN
MELTON	MARK	STAFFORD
MENECHELLA	ANTHONY	CARMELO
MENESATTI	CHIARA	
MENKES	LIANNE	ROSE
MENZAM	CHERIONNA	
MERKLEY	GERALDINE	HELEN
MERONUK	COLIN	DAVID
MESSMER	BIRGITTA	SIEGLINDE
MEYER	BRAD	ROBERT
MEYER	ROBERT	WAYNE
MEYER	SUSAN	LOUISE
MICHALEWICZ	CLAIRE	DUFFY
MICHAUD	JACQUES	CLAUDE CHARLES
MIGCHIELSEN	BETTY	P
MIGCHIELSEN	ROLAND	JOHANNES
MILES	LISA	ANN
MILLAR	SUZANNE	REBECCA
MILLER	DIANE	WILLIAMSON
MILLER	JOSHUA	BENJAMIN
MILLER	NEIL	JOHN
MILLER-DOEBELING	BENJAMIN	ALAN
MILLIKEN	TIMOTHY	PAUL
MILROY	DANIEL	JOHN
MIN	ANDREW	HYUN SEONG
MINDELL	WILLIAM	ROY
MINDRUM	MICHAEL	REID
MITAL	NIMISH	
MITCHELL	ANNE	
MITCHELL	ELEANOR	CLAIRE
MIYAKE	KAYNE	YOSHIHIRO
MIYAMAE	MICHELLE	ELYSE

Last name	First name	Middle name/initials
MIYAMOTO	YURI	
MOKHTARZADEH	UMA	
MOLINS	JOAQUIN	MARIA
MOLLARD	JACQUELINE	LEE
MONTAGUE	NEIL	WILLIAM
MONTAGUE	SALLY	ANN
MOOR	OLIVER	MARTIN
MOORE	JANE	CAMPBELL
MOORE	MAGDALENA	DOROTHY KEAN
MOOSA	YAASEEN	
MORAVI BOTTOLI	SABINE	CLAUDIA
MORELLI	ROBERT	FRANK
MORF	PATRICIA	MARGARET MILLER
MORRIS	ALISON	JOAN
MORRIS	WILLIAM	FREDERICK
MORRISON	DAVID	JOHN
MORRISON	LUCY	MAY
MORSE	THOMAS	PETER FERNAND
MOSER	CHRISTOPH	
MOSS	FREDERICK	ALAN
MOW	KRISTIN	ANGELICA
MUELLER	FRANK	
MULLER	FIONA	CHRISTINA
MULLER-BUHLER	STACY	LYNN
MUNZ	GARY	CHRISTOPHER
MURPHY	MEREDITH	JEAN
NAMTVEDT	CAMILLA	SCHJOTT
NAMTVEDT	ERIC	HJALMAR
NAPOLI	LYNDA	GAYE
NASSAUER	THORSTEN	
NATALOUKHIN	ANTHONY	PETER
NAZAL PAREDES	TOMAS	BRAHIN
NEARY	AMY	RUTH
NEARY	DANIEL	EDWARD
NEILSON	BRADLEY	ALLEN
NERBONNE	JOHN	ARTHUR
NEUBRONNERQ	MARCUS	TOBIAS
NEVIN	DAVID	ANTHONY
NEWCOMER	D'ARCY	CRANDALL
NG	JASON	DIN LAM
NG	KAE	JIA
NG	SHIRLEY	SUI YEE
NHIEU	NHU	BUOI
NIES	RICHARD	JULIUS
NODA	MIKA	
NOONAN	TERYL	LEE
NORTON	NICHOLAS	THOMAS
NUNAN	KEVIN	NICHOLAS
NUSSBAUMER	KIRA	SIBYL TATJANA
OBAYDA	FARIS	
O'BRODOVICH	MICHELLE	LYNNE
OERTLI	JACQUELINE	
OH	HYUN	KYUNG
OKADA	MASAMI	
OLAFSSON	BALDUR	FREYR
OLAK	ANTONIA	MARION
OLSEN	HILDE	OPPENDAL
OLSON	DAVID	AARON THORVALD
O'MALLEY	PAULINE	MARIE
ONODA	ETSUKO	
ONODA	HIDEKI	
OPLER	MICHAEL	ANDREW
ORD	KAY	LORRAINE
OTIS	GARD	WILLIAMS
OUELLETTE	RENE	GREGOIRE
OWEN	ALASDAIR	ROSS
PACHINGER	LISA	MARIE
PAGE	ANN	
PALMER	KIMBERLEY	MARY
PARK	YOUNG	MI
PARKER	ANTHONY	LAWRENCE
PARLEE	MYLES	RONALD
PARRISH	MARK	GUNDRY
PATTERSON	PAUL	JOSEPH

Last name	First name	Middle name/initials
PATY	JO ANNE	HAYMORE
PAULHAN	CAROLINE	ANNE
PENROSE	T	RICHARD
PERNOSKY	BENJAMIN	DARIN
PERTWEE	SEAN	CARL
PETEL	YITZHAK	
PETERS	CHERYL	ANN LOUISE
PETERSEN	POUL	BERING
PETROWSKI	JOSEPH	PHILIP
PETTINELLA	DARIO	MICHELE
PETTINELLA	FEDERICO	AMERIGO
PETTINELLA	LEONARDO	PELINO
PETTINELLA	SAVIA	GINA
PHAN	MAGGIE	
PHILLIPS	EDWARD	ROOKER
PIERSON	MICHAEL	JERRY
PINARD	ANTHONY	ANDREW
PINASSI	ILYA	
PIRACHA	MAHEEN	
PLESTED	BENJAMIN	JOHN
PLOCKI	BENJAMIN	WLADYSLAW
PLOCKI	MATTHEW	RICHARD
POIRIER	LEENA	MARIA
POLLACK	RICHARD	DAVID
POON	CHING	WAI
POON	RICHARD	WING-CHEUNG
PORTELLA COUTINHO	CARLOS	FILIPE
PORTER	MARY	CECILIA
POSLUNS	AARON	ZACHARY
PRATT	KATE	PAMELA
PRATT	PAMELA	MARGARET
PREISLER	JEFFREY	NATHAN
PRETEAU	REBEKAH	ANN
PRIESTER	ROBERT	JAMES
PRIMKE	ROBERT	KEVIN
PRINGLE	PAULA	JOSELLE
PRITCHARD	JULIE	STEVENS
PRODUIT	THOMAS	VINCENT
PULVER	HILARY	FLYNN
PURCELL	JAMES	
PURNAMA	PHILIP	SUWARDI
QIN	FUHUA	
QIN	XIN	
QUIK	CHRISTIAAN	PIETER
QUINN	BARBARA	LOU
QUINN	JOHN	JOSEPH
RABIN	SOPHIA	LYNE
RADKE	SARAH	MARIE
RASCOE	OLIVIA	ELIZABETH
RASTOGI	SAURABH	
RASTOGI	SHILPA	
RECASENS-VARGAS	CRISTINA	
REID	SUSAN	LEE
REIDL	HANS-ERICH	MARTIN
REISWIG	AMY	CHRISTINA
RELLA	TIMOTHY	CRAIG
RENDELY	JANE	ELEANOR TOBA
REVERDIN	ALEXANDRA	KATHRYN
RICH	ALICE	PARMELEE
RICH	ROBERTA	ANN
RIEB	LAUNETTE	MARIE
RIESTERER	CAROLINE	LOUISE
RING	JENNIFER	LOUISE
ROBBINS	MEGUMI	S
ROBERTS	KAREN	
ROBERTS	MELANIE	
ROBERTS	WALTRAUD	ALEXANDRA
ROBICHAUD	PAUL	EDMOND
ROBINSON	KRISTOPHER	K HOMEM DE MELLO
ROBINSON	LYDIA	LAURIE
ROESLER	ROBERTA	RENE
ROLINGHER	LOUISE	
RONIMUS	ROBERT	STARR
ROOST	DANIEL	

Last name	First name	Middle name/initials
ROSEN	REGINA	SUE
ROSKO	REINA	ELISE
ROTH	CAROLYN	
ROTHENBERG	CELIA	ELAINE
ROUSSELLE	VANESSA	ELIZABETH
ROY	ERIC	STOTT
ROY	MARC	ANTOINE
ROYLE	HEATHER	MARY
RUBIN	ADRIANNE	
RUGGLES	JUDY	LEE
RUIGENDIJK	JOLANDA	
RUNDQUIST	BRANDON	CHARLES
RUTNIN	SANPATNA	SCHEPENS
RUTTEN	HUBERT	PETER
RUUSKA	ANNE	LAURE
RYAN	SHANTAY	EYRONE
RYDER	JENNIFER	
SAAB FAOUR	CLODETTE	
SACHSENMAIER	TOBY	DEBRA
SADLER	FRANK	GEORGE
SAGAN	STUART	ROSS
SALAMONE	PATRIZIA	
SALMERON	AYUMI	
SANDERSON	KATHERINE	LOUISE
SANDS	MICHAEL	JOHN
SANTIAGO	DANIEL	
SANTUCCI	VICTORIA	ANN
SAPP	LESLIE	EUGENE
SARGEANT	SCOTT	WILLIAM
SARGENT	DOMINIQUE	GROSLIER
SARIDEWI	ELISABETH	INDRIATI
SAUNDERS	DAVID	WILSON
SAUTER	LOUIS	CLYDE
SAVUL	KARIM	ALEXANDER
SAXBERG	AASE	MARGRETHE
SAYLOR	GINEVRA	MIRIAM
SCHALCH	STEPHANIE	ELISABETH
SCHARF	COURTNEY	KATHRYN VIRGINIA
SCHIFFOVA	SARKA	SARKA
SCHILLER	SANDRA	LYNN
SCHMID-OERTEL	MARCEL	ROY
SCHORGE	R	JOSEPH
SCHRADER FRIGG	KAREN	LYNN
SCHRAUBEN	SEAN	ALEXANDER
SCHREINER	PAUL	JONATHAN
SCHWARZ	ANTJE	
SEELY	CHARLES	HILTON
SEFERIS	LOUISA	MOUDON
SEGAL	ALAN	
SEGAR	ANAND	HARI
SEIERSEN	SHAWN	ERIC
SERRA	SOFIA	AMORIM CERQUEIRA DOS SANT
SETO	JULIE	CHRISTA
SETO	MATTHEW	YUTMEND
SETZ	ADRIAN	MATTHEW
SHAW	MARGARET	ELIZABETH
SHAW	THOMAS	RICHARD CLINTON
SHAYNE	LAUREN	MALCA
SHEMIE	BONNIE	JEAN
SHENKER	HANNAH	RACHEL
SHEPHERD	BARRY	ADRIAN
SHIH	CHENG	HUA
SHIKASHIO	JAMES	KATSUMI
SHING	EUSDEN	
SHNIER	MICHELLE	
SHOEMAKER	HERMAN	JAY
SHOFF	DENNIS	HOWARD
SHORE	KEVIN	DANIEL
SHPILMAN	FELIX	
SHRIMPTON	CLAIRE	MEREDITH
SHRIVASTAVA	MANU	BOGUMIL
SIEBER	MARTIN	ANDREW
SIEGLER	MICHELLE	RENEE
SIEGRIST-LAUCHLI	MARCELLA	

Last name	First name	Middle name/initials
SIEMS	CARMEN	SUZANNE
SIGNER	CORINA	GABRIELA
SILLS	FRANKLIN	
SIMONI	DYLAN	FABIANO
SIMPSON	MARK	EDWARD
SINCLAIR	JOHN	ALEXANDER
SINCLAIR	MARION	TICKNOR
SIRINIVASAN	BALAJI	SUBBARAMAN
SKELTON	KARENA	DIANE
SLATER	JEFFREY	ALAN
SLATTERY	SAMANTHA	FRANCES
SMALL	AARON	DAVID
SMITH	AMANDA	NICOLE
SMITH	DEAN	WILLIAM
SMITH	LESLEY	ANN
SMITH FLOWER	HEATHER	ANNE
SMOOT	PAUL	PRAGOUT
SNIP	ELIZABETH	LORRAINE
SOJDA	JEFFEREY	SCOTT
SOLOWAY	DEBORAH	LEE
SOUVIRON	LAURENT	NICOLAS
SOWA	BRITTANY	LYNN
SPANGLER	CHARLES	WILLIAM
SPEISSEGGER	MARIA	ELIZABETH
SPICER	ALLISON	DAWN
SPIES	PAMELA	ANNE
SPIGEL	ROBERT	HAYS
SPIGEL	SUSAN	CATHERINE
SPINELLI	JOHN	JOSEPH
SPREEMANN	GARD	
SPRING	MICHAEL	SAMUEL
SREEDHARAN	KATHARINE	MARY
SRINIVASAN	BOONSRI	MELISSA DICKINSON
STAEHLI	CAROLINE	PATRICIA
STANNERS	NATHAN	DONALD
STARR	MICHAEL	BRIAN
STEIN PARBURY	MARY	JANE
STEINEBRUNNER	KURT	DALLINGER
STEPHENS	SARAH	ANN
STERRY	BARRY	ALLAN
STERRY	MICHAEL	RYAN LANGAN
STEWART	LILY	TALLULAH ROBERTSON
STIGLER	JOSEPH	MACK
STIRBISKY	MONA	ANN MARIE
STOECKEL	FREDERIC	
STOIBER	ANITA	FRANZISKA
STONE	MARTIN	JEREMY
STRAW	VICTORIA	ANNE
SUGINO	YUKIKO	
SUITS	PAUL	GORDON
SULLIVAN	HUGH	SEAN
SUMMER	LARKIN	BRIGHAM
SUTTON	ANNABEL	DENISE
SUTTON	CHARLES	MATTHEW
SUWANSIRI	PARAMES	
SUZUKI	CHIAKI	
SUZUKI	KEIICHIRO	
SUZUKI	KEITA	LEON
SWEENEY	DESMOND	HUGH MCLACHLAN
SYKES	CHRISTOPHER	CHARLES
SZEREMETA	WILLIAM	
SZETO	MICHELE	KATE
TACOUNI	LORRAINE	INEZ
TAIT (ONEILL)	ELIZABETH	JANE
TALLON	PAMELA	MARIE
TAMBELLINI	GARY	ALBERT
TAN	BERNARD	KIAN MENG
TAN	ERIC	AH LECK
TAN	JACK	
TAN BOON TEIK	CHRISTOPHER	
TANDARIC	ELIZABETH	LYNNE
TANDARIC	LAURA	KATHRYN
TANDARIC	ROBERT	EDWARD
TANG	YVONNE	WING-SHAN

Last name	First name	Middle name/initials
TAYLOR	GARY	LEE
TAYLOR	LAURA	JEAN
TAYLOR	MATTHEW	STEPHEN
TCHEA	LEE	BOON
TCHWELLA	YARON	
TEACHOUT	ANGELINA	SCARLET
TEACHOUT	KEN	BLUE
TEDJA	LEILANI	
TEIG	CHRISTIAN	BARTLETT
TELOUDEVA	KSENIA	
TETT	BENJAMIN	JOHN
TEXIER	GILLES	MICHEL
THIRUMOORTHI	ILAGO	VELAN
THOMAS	JAY	MICHAEL
THOMAS	JENNIFER	DIANA
THOMAS	MARY	ANNE
THOMAS	CRYSTAL	ANN
THOMPSON SOTO	SANDRA	E
THURLOW	WHITNEY	LEE
TIBER	MITCHELL	RODNEY
TIEMANN BOEGE	IRENE	
TIERNEY	JOHN	LAWRENCE
TINKOVA	DASHA	
TIPPLE	KEITH	
TIPPLE	VALERIE	ANN
TITCHENER	JANET	
TITCOMB	KIRSTEN	LEIGH
TOPOR	HAVA	HANA
TOUGAS	NATHANIEL	LAURIER
TOUHEY	MARY	PATTRICIA
TRAUTMAN	JOANNA	FLORENCE
TREFZER	MIRIAM	
TRELAWNY-ROSS	CHRISTOPHER	WILLIAM
TREMBLAY	LUC	DANIEL
TREVENA	HARMONY	
TROTTER	ELIZA	ANN
TSCHARNER	CAROLINE	URSINA
TSUCHIDA	AMI	
TSUCHIDA	REN	
TSUJI	ATSUKO	
UMBRICO	JULIA	ANN
UPPAL	MONIKA	
UPPAL	NAWDESH	
UPPAL	NEELAM	
VALSECCHI	FRANCESCA	PATRICIA
VAN CROMBRUGGE	YANN	MARCEL FRANCISCU
VAN DE KROL	RONALD	JACOB
VAN DER SLUIJS	JAN	JOHANNES
VAN HALEM	PATRICK	PIETER
VARNEY	RICHARD	ALLEN
VARTIAINEN	VELI	N
VENU	TARA	SAM
VERMA	SUBHASH	
VERSCHELDE	NICHOLAS	PATRICK
VET-BEERKENS	MARIE-CLAIRE	A
VIFIAN	ANNE	CLAIRE
VIRDY	KIRAN	KAUR
VITO	JAKE	WILLIAM
VITO	MARGARET	DARLING
VITO	SAMANTHA	ANN
VLESSIDES	CAROLINE	ELIZABETH
VLESSIDES	MICHAEL	PETER
VOKWINCKEL	ERIKA	ANN META
VON BULOW	CHRISTOPH	STEPHAN
VON DER HEYDEN	HEIKE	ELISABETH
VONK	NANCY	LATHROP MILLER
VUCUROVIC	KIMBERLY	CHARLOTTE
WALL	CHERYLIN	MARGARET
WALRAF	ANDY	GUY MIKE
WAMPLER	CELINE	LAURA
WANG	ANDREW	G
WANG	QIANG	
WANG	WEI	
WARD	BRIAN	DOUGLAS

Last name	First name	Middle name/initials
WARD	DIANE	FRANCES
WARD	MICHAEL	JOHN
WARNER	SUSAN	BAKER
WEATHERBE	JANET	CHRISTINA
WEAVER	LINDA	ELIZABETH
WEBER	PAUL	HANS
WEIDNER	STEFAN	
WELCHNER	SHELLEY	ANN
WELLS	KATHLEEN	MARY
WENSLEY	LARAINE	GAIL
WERTHEIM	RUTH	MILLER
WESTMAN	ERAN	
WESTON	NICOLE	ELIZABETH
WETTELAND	BEVERLEY	ANN
WHEATLEY	MARCIA	
WHITLEY	MARY	JANE
WHITTEMORE	JASON	MICHAEL
WHITTINGTON	MAKENZIE	FAITH
WHITWORTH	EIKO	A
WIDJAJA	HERMAN	
WIEHEN	DANIELA	GERTRUD
WILKINS	DONNA	MARIE
WILKINS	GERARD	ANTHONY
WILKINS	MARK	EBERHARDT
WILLARD	L'ANGELIQUE	TERAI A LILOA
WILLIAMS III	KIRK	
WILSON	BRADLEY	JAMES
WILSON	LOUISE	HEATHER
WINDER	CATHERINE	MAY
WINDISH	RYAN	LOGAN
WINTEMUTE	DAVID	WAYNE
WITH	THEODOR	LEINE
WITTRIN	MORITZ	HENDRIK
WONG	PHILIPPA	YU WANG
WOOD	JAMES	ROBERT
WOODS	PHILIPPA	DE COSSON
WOOTTEN	EDOUARD	GULLEY JIMSON
WRIGHT	KYLE	LAUREN
WU	CHING	TANG
WU	CHRISTOPHER	HAN YANG
WU	JEAN	CHING
WU	JEFF	JAN-YUAN
WUNSCH	PATRICIA	KATHLEEN
YAGER	SARAH	SUZANNE
YAMAJI	TAKESHI	
YAMAURA	AYA	
YAO	LORNALI	HUANN-WEI
YOON	HELEN	HEAWON
YOON	SE	WON
YOSHIDA	DOUGLAS	TODD
YOST	ERIKA	
YU	JENNY	CHIA HUA
ZANONI	ANNA	HEDY PIERINA
ZARB	JANET	MARY
ZAVIALOV	ILIA	NICOLAEVICH
ZEITER	PATRICK	
ZERVOGLOS	CHARALAMBOS	ALEXIS
ZHANG	KEMIN	
ZHANG	XIAO	
ZHONG	YUJIE	
ZHOU	JING	
ZIFKIN	BENJAMIN	GORDON
ZINGRAFF	IRA	JOSIAH
ZOLIN	ROXANNE	VIDA
ZVIELI	YOSEF	S
ZWANZIGER	JOSEF	WILSON

Dated: January 23, 2024.

Steven B. Levine,

Manager Team 1940, CSDC—Compliance Support, Development & Communications, LB&I:WEIIC:IIC:T4.

[FR Doc. 2024-01648 Filed 1-26-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

VA National Academic Affiliations Council, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that a meeting of VA's National Academic Affiliations Council (NAAC) will be held on March 12, 2024–March 13, 2024, at The American Legion, 7th Floor, 1608 K Street NW, Washington DC. The meeting sessions are open to the public.

The purpose of the NAAC or ''Council'' is to advise the Secretary on matters affecting partnerships between VA and its academic affiliates.

On March 12, 2024, the Council will convene an open session and receive presentations and updates beginning at 9 a.m. eastern standard time (EST). The agenda will include updates from NAAC's Diversity in the Healthcare Workforce Subcommittee, and the Strategic Academic Advisory Council (SAAC). The Council will receive presentations including an introduction to Artificial Intelligence in the VA, updates on the topics of STRONG Veterans Act, CHIP IN for Veterans Act: National Project Updates, and PACT ACT, Section 704 Updates—Sole Source Leasing from Academic Affiliates. The meeting will adjourn that day at 4:30 p.m. EST.

On March 13, 2024, the Council will convene an open session and receive presentations and updates beginning at 9 a.m. EST. The agenda will include a presentation on Federal Supremacy in the VA. The Council will also receive updates from MISSION ACT, Section 403 Implementation and VHA Electronic Health Record Modernization: Roll-Out and Governance. The Council will receive public comments from 11:20 a.m. to 11:50 a.m. EST. The meeting will adjourn at 12 p.m. EST.

Interested persons may attend and present oral statements to the Council on March 13th during the public comment period. A sign-in sheet for those who want to give comments will be available at the meeting. Individuals who speak are invited to submit a 1–2-page summary of their comments at the time of the meeting for inclusion in the official meeting record. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Council prior to the meeting, or at any time via email to *nellie.mitchell@va.gov.* Any member of the public wishing to attend or seeking additional information should contact Ms. Mitchell via email or by phone at (608) 358–9902.

Dated: January 24, 2024.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–01669 Filed 1–26–24; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. Ch. 10, that the Advisory Committee on Minority Veterans will meet on February 20–22, 2024, at the Department of Veterans Affairs, 810 Vermont Avenue NW, Conference Room 230, Washington, DC. The meeting sessions will begin and end as follows:

Date	Time	Location	Open session
February 20, 2024	8:00 a.m.–2:45 p.m. Eastern Standard Time (EST).	810 Vermont Avenue (NW), Washington, DC 20420, Room 230.	Yes.
February 21, 2024	8:00 a.m.–11:00 a.m. EST	810 Vermont Avenue (NW), Washington, DC 20420, Room 530.	Yes.
February 21, 2024	12:30 p.m.–4:30 p.m. EST	300 Army Navy Drive, Arlington, VA 22202	Yes.
February 22, 2024	8:00 a.m.–12:00 p.m. EST	810 Vermont Avenue (NW), Washington, DC 20420, Room C–7.	Yes.

This meeting is open to the public.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits by the Department for Veterans who are minority group members, by reviewing reports and studies on compensation, health care, rehabilitation, outreach, and other benefits and services administered by the Department. The Committee makes recommendations to the Secretary regarding such activities.

On February 20th, the Committee will receive briefings and updates from the Veterans Health Administration, Veterans Benefits Administration, National Cemetery Administration, Veterans Experience Office, and Center for Women Veterans. On February 21st, the Committee will receive briefings and updates from the National Association of State Directors of Veterans Affairs. On February 22nd, the Committee will receive briefings and updates from the Office of Equity Assurance and the Office of Public and Intergovernmental Affairs. The Committee will receive public comments from 11:45 a.m. to 11:55 a.m. EST. Afterwards, the Committee will continue to work on their report.

A sign-in sheet for those who want to give comments will be available at the meeting. Individuals who speak are invited to submit a 1–2-page summary of their comments at the time of the meeting for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Mr. Dwayne E. Campbell, Department of Veterans Affairs, Center for Minority Veterans (00M), 810 Vermont Avenue NW, Washington, DC 20420, or email at *Dwayne.Campbell3@va.gov.* Because the meeting will be in a government building, anyone attending must be prepared to show a valid photo ID for checking in. Please allow 15 minutes before the meeting begins for this process. Any member of the public wishing to attend or seeking additional information should contact Mr. Campbell or Mr. Ronald Sagudan at (202) 461–6191, or by fax at (202) 273–7092.

Dated: January 23, 2024.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–01616 Filed 1–26–24; 8:45 am]

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FEDERAL REGISTER

Vol. 89 Monday,
No. 19 January 29, 2024

Part II

Department of Labor

Employee Benefits Security Administration

29 CFR Part 2550
Automatic Portability Transaction Regulations; Proposed Rule

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

RIN 1210–AC21

Automatic Portability Transaction Regulations

AGENCY: Employee Benefits Security Administration (EBSA), Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed rule that would implement the statutory prohibited transaction exemption under section 4975 of the Internal Revenue Code (Code) for certain automatic portability transactions. Section 120 of the SECURE 2.0 Act of 2022 amended Code section 4975 to add a statutory exemption for the receipt of fees and compensation by an automatic portability provider for services provided in connection with an automatic portability transaction. Specifically, Code section 4975(d)(25) provides prohibited transaction relief if the conditions set forth in Code section 4975(f)(12) are met. The Department of Labor is proposing this regulation because, with certain exceptions not relevant here, section 102 of Reorganization Plan No. 4 of 1978 transfers the authority of the Secretary of the Treasury to issue certain regulations, rulings, opinions, and exemptions under Code section 4975 to the Secretary of Labor. Consistent with this transfer of authority, Congress authorized and directed the Department of Labor to issue regulations under Code section 4975 to implement provisions of section 120 of the SECURE 2.0 Act.

DATES: Comments on these proposed rules are due on March 29, 2024.

ADDRESSES: EBSA encourages interested persons to submit their comments on these proposed rules online. You may submit comments, identified by RIN 1210–AC21, by either of the following methods:

Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for submitting comments.

Mail: Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attn: Automatic Portability Regulations RIN 1210–AC21.

Instructions: All submissions must include the agency name and Regulatory Identifier Number RIN 1210–AC21 for this rulemaking. If you submit comments online, do not submit paper copies. All comments received will be posted without change on *www.regulations.gov* and *www.dol.gov/agencies/ebsa* and will be made available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

Warning: Do not include any personally identifiable or confidential business information in your comment that you do not want publicly disclosed. Comments are public records that are posted online as received and can be retrieved by most internet search engines.

Docket: Go to the Federal eRulemaking Portal at *https://www.regulations.gov* for access to the rulemaking docket, including any background documents and the plain-language summary of the proposed rule of not more than 100 words in length required by the Providing Accountability Through Transparency Act of 2023.

FOR FURTHER INFORMATION CONTACT: Scott Ness, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693–8500 or Joseph Brennan, Office of Exemption Determinations, Employee Benefits Security Administration, (202) 693–8456. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

A. Background Regarding Automatic Portability Transactions

Section 120 of the SECURE 2.0 Act of 2022 (SECURE 2.0 Act) [1] amended Internal Revenue Code (Code) section 4975 to add a statutory prohibited transaction exemption for the receipt of fees and compensation by an ''automatic portability provider'' for services provided in connection with an ''automatic portability transaction.'' Specifically, Code section 4975(d)(25) provides prohibited transaction relief if the conditions set forth in Code section 4975(f)(12) are met. In the retirement plan context, portability refers to the process of transferring workers' retirement savings from one tax-advantaged plan or account to another when their covered service with an employer terminates (*e.g.,* from a traditional 401(k) plan account to a traditional individual retirement plan—such as an individual retirement account or annuity described in Code section 408(a) or (b) (IRA)—or from a Roth 401(k) plan account to a Roth IRA. As described in more detail below, the term ''automatic portability transaction'' means a transaction in which mandatory distributions pursuant to Code section 401(a)(31)(B)(i) from an employer-sponsored retirement plan to an IRA established on behalf of an individual are subsequently transferred to an eligible employer-sponsored plan in which such individual is an active participant, after such individual has been given advance notice of the transfer and has not affirmatively opted out of such transfer. According to the most recent Department of Labor (Department) annual report (Form 5500) data, there are an estimated 635,000 defined contribution plans, covering an estimated 86.6 million participants with account balances totaling $9.3 trillion in assets.[2] With the proliferation of these accounts, there is a particular need for this type of automatic portability solution to help ensure participants remain connected to their retirement savings when they change jobs.[3]

1. Mandatory Distributions of Small Account Balances

Under the Code, qualified retirement plans are permitted to include provisions requiring an immediate distribution to a separating participant without the participant's consent if the present value of the participant's vested accrued benefit does not exceed $5,000 [4] (for distributions made after December 31, 2023, the $5,000 threshold is increased to $7,000).[5] These transactions are generally referred to as ''mandatory distributions.''

Code section 401(a)(31)(B) provides that a trust will not constitute a qualified trust unless the plan of which the trust is a part provides that: (1) if a mandatory distribution of more than $1,000 is to be made; and (2) the participant does not elect to have such distribution paid directly to an eligible

[1] Public Law 117–328, Dec. 29, 2022, Division T.

[2] 2021 Form 5500 Data, U.S. Department of Labor.

[3] Although the Department believes this body of plans is the one primarily relevant for purposes of the application of the statutory exemption, the Department notes that additional defined contribution plans that do not file a Form 5500 or Form 5500–SF and certain defined benefit plans are eligible to make mandatory distributions. *See* the regulatory impact analysis sections in this document for a discussion of the plans and participants impacted by this proposed regulation.

[4] Code sections 411(a)(11) and 417(e). *See* Code section 411(a)(11)(D) for circumstances where the amount of a distribution may be greater than $5,000 if a participant made a previous roll-in to a plan from an IRA. In such circumstances, the roll-in funds are not considered in determining the $5,000 vested accrued balance, so a larger amount of assets could be subject to a mandatory distribution under the terms of the plan.

[5] *See* SECURE 2.0 Act Sec. 304, updating dollar limit for mandatory distributions.

retirement plan or to receive the distribution directly, then (3) the plan administrator must transfer such distribution to an IRA of a designated trustee or issuer.[6] These distributions are referred to as ''automatic rollovers of mandatory distributions.'' Code section 401(a)(31)(B)(i) requires the plan administrator to notify the participant in writing, either separately or as part of the notice required under Code section 402(f), that the participant may transfer the distribution to another IRA.[7] Code section 402(f)(1)(A) requires plan administrators to provide a participant with a written notice within a reasonable period of time before making an automatic rollover of a mandatory distribution explaining, among other things, the following: (1) the Code provisions under which the participant may elect to have the distribution transferred directly to an eligible retirement plan and that if an election is not made, such automatic rollover of a mandatory distribution is subject to the provisions of Code section 401(a)(31)(B); (2) the provision requiring income tax withholding if the distribution is not directly transferred to an eligible retirement plan; and (3) the provisions under which the distribution will not be taxed if the participant transfers the distribution amount (including amounts withheld under Code section 3405) to an eligible retirement plan within 60 days of receipt.[8]

The Secretary of Labor (the Secretary) issued regulations in 2004 providing safe harbors for such automatic rollovers of mandatory distributions from a plan subject to Title I of the Employee Retirement Income Security Act (ERISA) which provide that (1) a plan administrator's designation of an IRA to receive the automatic rollover and (2) the initial investment choice for the rolled-over funds will be deemed to satisfy the fiduciary responsibility provisions of ERISA section 404(a) if the safe harbor requirements are met.[9] Specifically, plan administrators complying with the Department's fiduciary safe harbor regulations must invest the former participant's assets in an investment product designed to preserve principal and provide a reasonable rate of return.[10] An IRA established pursuant to Code section 401(a)(31)(B) and/or in compliance with the Department's regulation is commonly referred to respectively as a ''Default IRA'' or ''Safe Harbor IRA.''

2. Automatic Portability Transactions

An automatic portability transaction as defined in Code section 4975(f)(12)(A)(i) builds on the portability concept and is part of a larger framework for facilitating the movement of assets from one tax-favored retirement plan to another. The overall terms and details of an automatic portability framework would generally be memorialized in contracts with recordkeepers, plan sponsors, and the automatic portability provider. A comprehensive automatic portability framework includes three key components. First, there is a ''transfer-out'' plan that initiates a mandatory distribution. Second, there is an IRA established in accordance with Code Section 401(a)(31)(B) (a Default IRA) to receive (via a rollover) and hold the distributed funds.[11] Third, there is a ''transfer-in'' plan that receives the roll-in distribution from the Default IRA when an IRA owner is matched with an account in an eligible employer-sponsored plan at a new employer.

To roll in funds from an IRA to the transfer-in plan, the transfer-in plan must permit such roll-ins. Additionally, an automatic portability provider must have access to records for the Default IRA and transfer-in plan sufficient to make a match. The general concept of ''locate, match, and transfer'' involves making queries of cooperating recordkeepers' systems to determine if a Default IRA owner has become a participant in an employer-sponsored retirement plan through re-employment (*i.e.,* the transfer-in plan).[12] If the individual is matched with an account in the transfer-in plan, the automatic portability transaction is designed for the automatic portability provider to roll the individual's IRA assets into the individual's account in the transfer-in plan. Automatic portability transactions may be particularly important and helpful to workers who have lost contact with their retirement plans when they change jobs, cannot be located because the plan does not have updated address information or other contact information for separated employees, or refuse to respond to plan communications about their retirement account. When an automatic portability provider transfers funds from the transfer-out plan to a Default IRA without a participant's active involvement, the risk of funds becoming lost or difficult to locate increases. Therefore, automatic portability transactions are intended to benefit participants and IRA owners that are unresponsive or considered missing.[13]

3. Current DOL Individual Prohibited Transaction Exemption for Automatic Portability Transactions

When an automatic portability provider transfers assets from an IRA to a new employer's plan without the IRA owner's affirmative consent, the automatic portability provider is exercising fiduciary discretion for purposes of the prohibited transaction provisions of the Code.[14] The assessment of a fee against the IRA, in turn, implicates the prohibited transaction provisions in Code section 4975(c)(1). The Department first issued guidance regarding an automatic portability transaction before the enactment of the SECURE 2.0 Act. Retirement Clearinghouse (RCH) approached the Department in 2018 for sub-regulatory guidance and prohibited transaction exemptive relief regarding its multi-part automatic portability framework (the RCH Program). In response, the Department issued Advisory Opinion 2018–01A (AO 2018–01A)[15] and an administrative prohibited transaction exemption (PTE 2019–02)[16] in connection with the RCH Program. AO 2018–01A concerned the status of certain parties involved in the RCH Program as ''fiduciaries'' within the meaning of ERISA section 3(21)(A) and Code section 4975(e)(3).[17] In AO 2018–01A, the Department stated that plan sponsors exercise discretion in their fiduciary capacity and would be

[6] Code section 401(a)(31)(B)(i) requires the transfer be made to an ''individual retirement plan,'' defined by Code section 7701(a)(37) as an individual retirement account described in Code section 408(a) and an individual retirement annuity described in Code section 408(b). See IRS Notice 2005–5, 2005–1 C.B. 337, regarding the applicability of Code section 401(a)(31)(B) to retirement plans under Code sections 401(a), 401(k), 403(a), 403(b), and 457(b) (*https://www.irs.gov/irb/2005-03_IRB*).

[7] ;Code section 401(a)(31)(B)(i).

[8] *See* 29 CFR 2550.404a–2; Code section 401(a)(31)(B)(i); and Code section 402(f).

[9] *See* 69 FR 58017 (Sep. 28, 2004).

[10] 29 CFR 2550.404a–2(c)(3)(i).

[11] This may be, but is not necessarily, a Safe Harbor IRA established in accordance with the Department's regulations at 29 CFR 2550.404a–2 because all Safe Harbor IRAs are generally Default IRAs, but not all Default IRAs are Safe Harbor IRAs.

[12] The concept of ''locate, match, and transfer'' is discussed in more detail below.

[13] The Department notes that Code section 4975(f)(12) defines an automatic portability transaction with respect to an individual that has not affirmatively consented to the transfer. An individual who affirmatively consents may still have IRA assets rolled into a new plan through the same mechanisms, although it would not technically fall within the statutory definition.

[14] See the discussion of AO 2018–01A, below.

[15] Available at: *https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/advisory-opinions/2018-01a.pdf.*

[16] *See* 83 FR 55741 (Nov. 7, 2018) (proposed exemption) and 84 FR 37337 (July 31, 2019) (granted exemption).

[17] AO 2018–01A (Nov. 18, 2018).

subject to the general fiduciary standards of ERISA when deciding whether to participate in the RCH Program. The advisory opinion further explained that, without the individual's affirmative consent, RCH acted as a fiduciary within the meaning of Code section 4975(e)(3) in deciding whether to transfer the assets from an individual's Default IRA to the individual's new employer plan.[18] Furthermore, the Department indicated that an individual's failure to respond to RCH's communications about a default transfer of the assets in the individual's account to the new employer's plan is not tantamount to affirmative consent by the individual to the default transfer and does not relieve RCH from fiduciary status and related responsibilities.[19]

The Department additionally stated in AO 2018–01A that, unlike the Department's automatic safe harbor regulations,[20] which pertain to the automatic rollover of an individual's retirement plan mandatory distribution into an IRA, no similar statutory or regulatory provision provides relief from fiduciary responsibility for the ''default'' transfer of assets from the Default IRA to a new employer's plan.[21] Therefore, it was necessary for RCH to receive a prohibited transaction exemption from the Department in order for RCH to receive a fee or other compensation when it exercised fiduciary authority to make the default transfer of assets from the Default IRA to a new employer's plan.[22] At RCH's request, the Department issued PTE 2019–02, an administrative exemption that provides such prohibited transaction relief for RCH.[23] Due to the novelty of the RCH Program, the Department limited the relief provided in PTE 2019–02 to a five-year term, which expires on July 31, 2024. To receive prohibited transaction relief beyond the five-year term, RCH would need to submit an additional individual administrative exemption request to the Department.

[18] *Id.* at 5.

[19] *Id.* at 5–6.

[20] 29 CFR 2550.404a–2 and 2550.404a–3.

[21] *Id.* at 6. The Department notes that Code section 4975(f)(12) applies only to transfers made under Code section 401(a)(31)(B)(i), so the fiduciary relief provided in 29 CFR 404a–3 is not applicable to transactions covered by 4975(d)(25).

[22] AO 2018–01A addressed the fiduciary status of an automatic portability provider but did not address whether a prohibited transaction would occur.

[23] 84 FR 37337.

B. Overview of the SECURE 2.0 Act Statutory Exemption for Automatic Portability Transactions

Section 120 of the SECURE 2.0 Act added a statutory exemption in Code section 4975 that allows an automatic portability provider to receive a fee in connection with executing an automatic portability transaction that largely mirrors the relief the Department granted RCH in PTE 2019–02. The availability of the statutory exemption to all automatic portability providers that meet its requirements generally eliminates the need for RCH, and other automatic portability providers, to request an administrative PTE for relief similar to the relief the Department granted in PTE 2019–02. Specifically, the statutory exemption in Code section 4975(d)(25) provides a conditional prohibited transaction exemption from the restrictions in Code sections 4975(c)(1)(D) and (E) for an automatic portability provider to receive fees and compensation for services provided ''*in connection with an automatic portability transaction*'' if the conditions set forth in Code section 4975(f)(12) are met.[24]

Code section 4975(f)(12)(A)(i) generally defines an automatic portability transaction as a transfer of assets from a Default IRA [25] to a transfer-in plan after the IRA owner has been given advance notice of the transfer and has not affirmatively opted out. The ''transfer-in'' plan covered by the definition is any employer-sponsored retirement plan (other than a defined benefit plan) that is: a qualified trust, an annuity plan described in Code section 403(a), an eligible deferred compensation plan described in Code section 457(b) which is maintained by an eligible employer described in Code section 457(e)(1)(A), or an annuity contract described in Code section 403(b).[26]

Notably, the SECURE 2.0 Act amendment to the Code does not specifically include any references to a transfer-out plan (*i.e.,* the plan engaging in the mandatory distribution and automatic rollover). As discussed above, the existence of a transfer-out plan is a necessary precursor to an automatic portability transaction, but the transfer-out transaction is already governed by mandatory distribution and automatic rollover provisions in the Code that are discussed above, and the Department already has provided conditional fiduciary and prohibited transaction relief for such transactions under its automatic rollover safe harbor regulations.[27] Similarly, the general fiduciary principles regarding an individual's default investments in the transfer-in plan and the Department's regulations on qualified default investment alternatives will govern the transfer-in plan sponsor's responsibilities once the assets are transferred from the individual Default IRA into the transfer-in plan.[28]

As noted, Code section 4975(d)(25) provides prohibited transaction relief if the conditions set forth in Code section 4975(f)(12) are met. Specifically, Code section 4975(f)(12) and this proposed regulation require:

- the automatic portability provider to acknowledge its fiduciary status with respect to the IRA;
- that the automatic portability provider's fees do not exceed reasonable compensation;
- restrictions to be placed on an automatic portability provider's use of plan participant and IRA owner data;
- participation in the program to be available on the same terms for all eligible transfer-in plans;
- the automatic portability provider to conduct at least monthly searches for transfer-in plan accounts;
- the automatic portability provider to timely execute automatic portability transactions;
- the automatic portability provider's discretion to affect the timing or amount of the transfer pursuant to an automatic portability transaction to be limited; and
- the automatic portability provider to retain records demonstrating it is complying with the exemption conditions, conducting an annual audit, and maintaining a website with a list of participating recordkeepers and the automatic portability provider's fees.

Section 120 of the SECURE 2.0 Act also provides that, not later than 12 months after the date of its enactment, the Secretary shall issue such guidance as may be necessary to carry out the purposes of the amendments made by section 120, including regulations or other guidance which:

1. Require an automatic portability provider to provide a notice to individuals on whose behalf the default IRA is established in advance of the pre-transaction notice;

2. Require an automatic portability provider to disclose to a responsible plan fiduciary information about the

[24] Emphasis added.

[25] The statutory definition specifically references ''an individual retirement plan which is established on behalf of an individual and to which amounts were transferred under section 401(a)(31)(B)(i).''

[26] These are plans described in clause (iii), (iv), (v), or (vi) of Code section 402(c)(8)(B).

[27] 29 CFR 2550.404a–2.

[28] 29 CFR 2550.404c–5.

provider's fees, compensation, and services as required of covered service providers pursuant to DOL regulations under ERISA section 408 (*i.e.,* 29 CFR 2550.408b–2(c));

3. Require plans involved in the automatic portability transaction to fully disclose fees related to an automatic portability transaction in its summary plan description or summary of material modifications;

4. Require plans involved in the automatic portability transaction to invest amounts received on behalf of a participant pursuant to an automatic portability transaction in the participant's current investment election under the plan or, if no election is made or permitted, in the plan's qualified default investment alternative under the Department's Qualified Default Investment Alternative (QDIA) regulations (*i.e.,* 29 CFR 2550.404c–5) or another investment selected by a fiduciary with respect to such plan;

5. Prohibit or restrict the receipt or payment of third-party compensation (other than a direct fee paid by a plan sponsor which is in lieu of a fee imposed on an IRA owner) by an automatic portability provider in connection with an automatic portability transaction;

6. Prohibit exculpatory provisions in an automatic portability provider's contracts or communications with individuals disclaiming or limiting liability in the event that an automatic portability transaction results in an improper transfer;

7. Require an automatic portability provider to take actions necessary to reasonably ensure that participant and beneficiary data is current and accurate;

8. Limit the automatic portability provider's use of data related to automatic portability transactions for any purpose other than the execution of such transactions or locating missing participants, except as permitted by the Secretary;

9. Provide for corrections procedures in the event an auditor determines the automatic portability provider was not in compliance with the statute and related regulations, including deadlines, supplemental audits, and corrective actions which may include a temporary prohibition from relying on the statutory exemption;

10. Ensure that participants and beneficiaries receive all the required notices and disclosures; and

11. Make clear that the statutory exemption applies solely to the automatic portability transactions described in the statutory exemption, and, to the extent the Secretary deems necessary or advisable, specify how the application of the exemption relates to or coordinates with other statutory provisions, regulations, and administrative guidance.[29]

Some interested stakeholders have communicated to the Department that they have already developed products and established procedures for an automatic portability service and that they do not believe any further guidance from the Department is necessary to effectuate the purpose of section 120 of the SECURE 2.0 Act. However, the Department believes that regulations, as compared to some other form of guidance, are needed to implement section 120(c) of the SECURE 2.0 Act in a manner that addresses and reinforces the consumer protections in the above list of statutory conditions and requirements. Furthermore, the Department believes that these proposed regulations will provide a broader cross-section of interested and affected entities with the opportunity to formally comment on the proposal, whether implementing regulations are necessary, and whether elements of the proposed requirements should be modified or eliminated to best support Congress' intent in passing the new statutory exemption.

C. Prospective Effect of Implementing Regulations and Interim Interpretive Policy

The Department is proposing that any final rule adopted based on this proposal would be effective 60 days after publication in the **Federal Register** and that the requirements of the final rule would have prospective applicability. The Department specifically solicits comments on whether there should be some delayed applicability date to allow for automatic portability providers and plan fiduciaries to make any changes to automatic portability programs or related contracts or arrangements that may be needed or desired in light of the final rule. This approach is intended to make it clear the statutory exemption is available in accordance with the effective date of the SECURE 2.0 Act while acknowledging that there may be a need to transition contracts or arrangements to meet specific requirements of the final rule.

As noted above, section 120 of the SECURE 2.0 Act directed the Secretary to issue such guidance as may be necessary to carry out the purposes of the amendments made by section 120 no later than 12 months after the date of the enactment of the Act. Compliance with the conditions and requirements in Code sections 4975(d)(25) and 4975(f)(12) is an independent statutory obligation for parties seeking their prohibited transaction relief that is not dependent upon the issuance of regulations or guidance by the Department. For the period from publication of this proposed regulation until after the Department issues a final regulation or other applicable administrative guidance, automatic portability providers and plan fiduciaries are expected to comply with the requirements of Code sections 4975(f)(12) and 4975(d)(25) using a good faith, reasonable interpretation of the law taking into account the list of consumer protection conditions and requirements in section 120(c) of the SECURE 2.0 Act.[30] During that period, to the extent an automatic portability provider or plan fiduciary believes there is some uncertainty regarding whether the automatic portability program or the parties' conduct in connection with the program complies with the statutory provisions, the Department expects that the provider or fiduciary will strictly adhere to the requirements in Code section 4975(f)(12) and act in a manner that furthers the financial interests of the affected plan, plan participant, or IRA owner taking into account the consumer protection conditions and requirements listed in section 120(c) of the SECURE 2.0 Act.

D. Overview of the Proposed Regulation

Certain provisions of ERISA Title I, such as the provisions on prohibited transactions, have parallel provisions enacted in Title II of ERISA and codified in the Code. When ERISA was passed,

[29] *See* Public Law 117–328, Dec. 29, 2022, Division T, Sec. 120(c).

[30] The Department expects to issue a final rule before the first annual audit would be required pursuant to the requirement in Code section 4975(f)(12)(B)(xi)(II) under which an automatic portability provider must ''conduct an annual audit, in accordance with regulations promulgated by the Secretary of Labor, of automatic portability transactions occurring during the calendar year to demonstrate compliance with this paragraph and any regulations thereunder and identify any instances of noncompliance therewith, and shall submit such audit annually to the Secretary of Labor, in such form and manner as specified by such Secretary.'' However, because a final rule may be published part way through the first audit period, the Department specifically solicits comments on whether the final rule should provide an alternative pursuant to which the submission of the annual audit for the first year could be delayed and submitted together with the audit for the second year. *See,* for comparison, 29 CFR 2520.104–50—Short plan years, deferral of accountant's examination and report. The Department also requests comment on whether certain aspects of this proposal that would be subject to audit review should have a specific delayed effective date because the aspect of the proposal may take additional time for an automatic portability provider to fully implement.

regulatory authority over Title I resided with the Secretary of Labor while regulatory authority over Title II resided with the Secretary of the Treasury. To rationalize the administration and interpretation of these parallel provisions, Reorganization Plan No. 4 of 1978, 5 U.S.C. App., divided the interpretive and rulemaking authority between the Secretaries of Labor and of the Treasury, so that, in general, the agency with regulatory and interpretive responsibility for a given provision of ERISA Title I would also have regulatory and interpretive responsibility for the parallel provision in the Code. Among the sections transferred to the Department were certain of the prohibited transaction provisions (including exemptions) in Code section 4975. Title I's prohibited transaction rules, 29 U.S.C. 1106–1108, apply to Title I-covered plans, and the Code's corresponding prohibited transaction rules, 26 U.S.C. 4975, apply both to Title I-covered pension plans that are tax-qualified pension plans, as well as other specified tax-advantaged arrangements, including IRAs.

Although the new automatic portability transaction prohibited transaction exemption appears only in Code section 4975 and directly pertains to transactions involving IRAs, the Secretary of Labor still retains regulatory authority over certain prohibited transaction provisions under Code section 4975, as provided in Reorganization Plan No. 4 of 1978. Consistent with that authority, section 120 of the SECURE 2.0 Act directs the Secretary of Labor to issue regulations and guidance related to the new statutory exemption for automatic portability transactions.

Therefore, the proposed regulation would add a new § 2550.4975f–12 to the Department's fiduciary regulations at 29 CFR part 2550. The proposed regulation tracks the requirements under Code section 4975(f)(12) that must be satisfied in order for the automatic portability transaction to be covered by the statutory prohibited transaction exemption in Code section 4975(d)(25). Paragraph (a) describes the general scope of the statutory exemption and regulation. Paragraph (b) sets forth the conditions an automatic portability provider must satisfy for a transaction to qualify as an ''automatic portability transaction'' and for the exemption to apply. Paragraph (c) sets forth proposed annual audit and correction procedure requirements. Paragraph (d) sets forth website requirements that must be met for automatic portability providers to satisfy the statutory exemption and proposed regulation. Paragraph (e) describes prohibitions on the automatic portability provider's use of exculpatory provisions in contracts or communications disclaiming or limiting their liability in the event an improper transfer of assets in connection with an automatic portability transaction occurs. Paragraph (f) sets forth the record retention requirement automatic portability providers must meet to satisfy the statutory exemption and proposed regulation. Paragraph (g) defines certain terms used in the proposed regulation.

1. Scope of Prohibited Transaction Relief

The relief provided by Code section 4975(d)(25) and the proposed exemption is limited to Code sections 4975(c)(1)(D) and (E) for the receipt of fees and compensation by an automatic portability provider for services provided in connection with an automatic portability transaction and Code section 4975(c)(1)(F) for the receipt of fees by an automatic portability provider from a plan sponsor in lieu of fees imposed on an IRA owner. Neither the statutory exemption in Code section 4975(d)(25) nor the proposed regulation contains an exemption for other acts described in Code section 4975(c)(1)(D) and (E) (relating to the transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a plan and to fiduciaries dealing with the income or assets of plans in their own interest or for their own account) that are not in connection with the automatic portability transaction. Additionally, neither the statutory exemption in Code section 4975(d)(25) nor the proposed regulation contains an exemption for acts described in Code section 4975(c)(1)(F) (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan) except for the limited relief for a fee paid by a plan sponsor, noted above. Such acts described in Code sections 4975(c)(1)(D), (E), and (F) are separate transactions not described in Code section 4975(d)(25). Further, neither the statutory exemption in Code section 4975(d)(25) nor this proposed regulation contains an exemption from other provisions of the Code, such as section 401, or other provisions of law which may impose requirements or restrictions relating to the transactions that are exempt under Code section 4975(d)(25). As defined in Code section 4975(f)(12)(A)(ii) and in this proposed regulation, an automatic portability provider is a person, other than an individual, who executes the automatic portability transaction on the same terms to all transfer-in plans and Default IRAs that use the provider.

The Department interprets the ''in connection with'' language from Code section 4975(d)(25) to include only those services and related fees and compensation that would not otherwise occur or be incurred if not for the automatic portability transaction or anticipation of a future automatic portability transaction. The Department requests comments on whether additional specificity regarding the types of services that are covered by Code section 4975(d)(25) should be included, for example, by a definition added to the regulations that identifies the types of services. Further, if a commenter believes more specificity would be helpful, the Department requests that the commenter include a proposed definition, list, or other identification of the services that should be covered.

2. Acknowledgment of Fiduciary Status

Code section 4975(f)(12)(B)(i) and this proposed regulation requires an automatic portability provider to acknowledge that it is a fiduciary with respect to the IRA in an automatic portability transaction.[31] Pursuant to the statutory text authorizing the Secretary to specify the time and format of such an acknowledgment, paragraph (b)(1) of this proposed regulation requires the automatic portability provider to acknowledge in writing that it is a fiduciary as defined in Code section 4975(e)(3) upon being engaged by a plan fiduciary, as well as in the required notices and disclosures, described below, to plan participants and IRA owners. This fiduciary acknowledgement is designed to ensure that the fiduciary nature of the relationship is clear to the automatic portability provider and responsible plan fiduciaries as well as to affected participants and IRA owners.[32] The automatic portability provider's acknowledgment of its fiduciary status may include a description of the scope of the fiduciary status of the automatic portability provider and may explain that, consistent with Code section 4975(e)(3), the automatic portability provider is not a fiduciary under the Code's definition with respect to any

[31] As described in Code section 4975(f)(12)(A)(i)(I).

[32] This is generally when an individual fails to respond to notices and the automatic portability provider directs the transfer of assets and assesses fees. *See* AO 2018–01 for a more detailed description of fiduciary status in automatic portability arrangements.

assets or administration of the plan or IRA with respect to which the automatic portability provider does not (1) have any discretionary authority, discretionary control, or discretionary responsibility (2) exercise any authority or control, and (3) render investment advice for a fee or other compensation, nor have any authority or responsibility to render such investment advice. The Department notes that it is possible that the automatic portability provider may have fiduciary status under other laws, *e.g.,* the Federal securities laws. The acknowledgment required by the exemption does not reach such status but the Department notes that the acknowledgment required by the exemption should not be presented in a way that misinforms or misleads individuals regarding potential fiduciary status under such other laws.

3. Fees

(a) Reasonable Compensation

Subject to two exceptions described below, Code section 4975(f)(12)(B)(ii)(I) and this proposed regulation permit an automatic portability provider to receive fees and compensation for services provided in connection with the automatic portability transaction, provided that the fees and compensation do not exceed reasonable compensation. The proposed regulations incorporate the existing standard regarding reasonable compensation for the provision of services found at 26 CFR 54.4975–6(e).

(b) Fee and Compensation Disclosure Requirement

This proposed regulation mirrors the statutory text by requiring the automatic portability provider to disclose to a responsible plan fiduciary of the transfer-in plan the information that a service provider to the plan would be required to disclose under 29 CFR 2550.408b–2(c). For purposes of this requirement, the disclosures would relate to the automatic portability provider's services as an automatic portability provider and not other services that may be provided. For purposes of this disclosure requirement, the automatic portability provider will be considered to be a ''covered service provider'' under 2550.408b–2(c)(1)(iii)(A) and (B) providing services as a fiduciary and as a recordkeeper. Since the automatic portability provider would generally be precluded from receiving third-party compensation under other provisions of the proposal, the Department does not believe the provisions of 2550.408b–2(c) related to a covered service provider under 2550.408b–2(c)(1)(iii)(C)—''other services for indirect compensation''—would be relevant. The Department seeks comments on whether there are particular compliance issues under 2550.408b–2(c) for automatic portability providers that the Department should specifically address in a final rule.

(c) Prohibition of Fees for Automatic Portability Transactions Involving a Plan of the Automatic Portability Provider or Its Affiliates

The statute prohibits an automatic portability provider from receiving any fees or compensation in connection with an automatic portability transaction involving a plan which is sponsored or maintained by the automatic portability provider. In other words, the automatic portability provider may execute such transactions, but it may not receive fees for doing so. In the Department's view, the statutory reference to the automatic portability provider in this circumstance should be read to include any affiliates of the automatic portability provider. Accordingly, paragraph (b)(2)(iv) of the proposed regulation mirrors the statutory provision by prohibiting an automatic portability provider from receiving any fees or compensation in connection with an automatic portability transaction involving a plan that is sponsored or maintained by the automatic portability provider but includes plans maintained by any of the automatic portability provider's affiliates.

(d) Prohibition on Receipt of Third-Party Compensation in Connection With Automatic Portability Transactions

Section 120(c)(5) of the SECURE 2.0 Act provides the Secretary with the regulatory authority to prohibit or restrict the receipt or payment of third-party compensation (other than a direct fee paid by a plan sponsor that is in lieu of a fee imposed on an IRA owner) by an automatic portability provider in connection with an automatic portability transaction. The proposed regulation includes text that mirrors the statutory text allowing a direct fee to be paid by a plan sponsor if it is in lieu of a fee imposed on an IRA owner. The proposed regulation includes one exception to the general restriction on third-party compensation. Specifically, under the proposal, an automatic portability provider would be able to share a portion of its fee or compensation with another automatic portability provider as long as the overall fee paid, directly or indirectly, by the plan or IRA does not increase as compared to the fees disclosed in the description provided to the plan administrator and in the initial enrollment notice provided to the IRA owner.

The third-party compensation restriction in the proposed regulation is limited to fees and compensation in connection with the automatic portability transaction and would not prevent an automatic portability provider from receiving fees for services provided to an IRA or employer-sponsored retirement plan that are in addition to services provided in connection with the automatic portability transaction. However, the prohibited transaction relief provided in Code section 4975(d)(25) applies only to fees and compensation received in connection with the automatic portability transaction. The automatic portability provider would need to rely upon other statutory or administrative exemptions if it receives fees for providing additional services that involve prohibited transactions.

4. Data Usage and Protection

Code section 4975(f)(12)(B)(iii) prohibits an automatic portability provider from using data it obtains in connection with automatic portability transactions for any purpose other than to execute the automatic portability transactions or locate missing participants as part of its automatic portability service, except as permitted by the Secretary. The automatic portability provider is specifically prohibited by the statute from marketing or selling data relating to the IRA or to the plan participants. Paragraph (b)(3) of the proposed regulation parallels the statutory language by not permitting the use of data for any purpose other than the execution of automatic portability transactions or locating missing participants. For purposes of the restriction on marketing or selling IRA data, the Department interprets this to include specific data regarding the IRA owner. The Department is not proposing any exceptions to this restriction. However, the Department welcomes comments on whether the regulations should permit use of data for other purposes, and, if it should, what those other purposes would be, whether allowing use of data for those purposes would provide a benefit to IRA owners and plan participants, and what regulatory protections should be applied to that use of the data.

In support of the obligation to limit use of data, the proposed regulation provides that the automatic portability provider must take steps that a prudent fiduciary would take to safeguard plan participant and IRA data in its

possession or under its control.[33] The proposal further would require, if data were improperly accessed, that the automatic portability provider take appropriate remedial actions to safeguard the data based on the sensitivity of the accessed data and the nature and severity of the breach. The Department seeks comment on whether the regulation should include specific data security requirements, such as a requirement to carry insurance to cover data breaches.

5. Open Participation

Paragraph (b)(4) of this proposed regulation parallels Code section 4975(f)(12)(B)(iv) by requiring as a condition of the availability of the exemption that the automatic portability provider offer automatic portability transactions on the same terms to any transfer-in plan. This proposed requirement does not mean that fees can never change. Rather, at any given time, the fees paid for automatic portability transactions should be the same for any transfer-in plan that engages the automatic portability provider.

Based on the general regulatory authority granted to the Secretary in section 120(c) of the SECURE 2.0 Act, the Department is also proposing that open participation would require that the automatic portability provider not restrict or limit the ability of an employer-sponsored retirement plan, IRA provider (including trustees under Code section 408(a), custodians under Code section 408(h), or issuers under Code section 408(b)), or recordkeeper to engage other automatic portability providers to execute automatic portability transactions. In proposing this requirement, the Department recognizes that numerous service providers that have existing systems for automatic rollovers of mandatory distributions may want to supplement their services with automatic portability transaction features. Plan fiduciaries or service providers may determine that there are cost-effective ways to integrate services of more than one automatic portability provider to increase the likelihood of successfully locating participant funds for transfer into the transfer-in plan.

6. Notices

(a) Notice to the Department

The Department has an obligation under the statute to monitor and enforce the audit reporting requirements for automatic portability providers relying on the exemption, including deadlines for submitting the audit report to the Department. Accordingly, under the proposed regulation, within 90 calendar days of the date that the automatic portability provider begins operating an automatic portability transaction program that is intended to rely on prohibited transaction relief provided by section 4975(d)(25), the automatic portability provider must notify the Secretary at *auto-portability@dol.gov* that it is operating as an automatic portability provider in accordance with Code section 4975(d)(25). The automatic portability provider must report the legal name of each business entity relying upon the exemption and any name (*e.g.,* trade or Doing Business As (DBA) name) under which the business entity may be operating. This notification needs to be updated to report a change to the legal or operating name(s) of the automatic portability provider that is relying upon the exemption. The automatic portability provider will have 90 calendar days to report a change to the legal or operating name. The automatic portability provider may also notify the Department if it is no longer operating in reliance upon the exemption. The notification requirement will allow the Department to monitor and enforce the audit report requirements.

(b) Model Description of Automatic Portability Program for Use in Summary Plan Descriptions by Transfer-Out and Transfer-In Plans

In the Department's view, to comply with the summary plan description (SPD) content requirements in 29 CFR 2510.102–2 that the SPD ''shall be sufficiently comprehensive to apprise the plan's participants and beneficiaries of their rights and obligations under the plan,'' participating transfer-out plans and transfer-in plans subject to ERISA's SPD requirements must include a description of the automatic portability program in the plan's SPD. Further, section 120(c)(3) of the SECURE 2.0 Act provides the Secretary with authority to require a transfer-in plan to fully disclose fees related to an automatic portability transaction in its SPD or summary of material modifications (SMM) to the extent an SMM is used to fulfill this SPD disclosure requirement.

The Department's existing regulatory safe harbors for automatic rollovers by the transfer-out plan already require plan administrators for ERISA Title I plans to provide participants with an SPD or SMM that describes the plan's automatic rollover provisions. The SPD or SMM also must include: (1) an explanation that the mandatory distribution will be invested in an investment product designed to preserve principal and provide a reasonable rate of return and liquidity; (2) a statement indicating how fees and expenses attendant to the IRA will be allocated (*i.e.,* the extent to which expenses will be borne by the IRA owner alone or shared with the distributing plan or plan sponsor); (3) the name, address and phone number of a plan contact (to the extent not otherwise provided in the SPD or SMM) for further information concerning the plan's automatic rollover provisions; and (4) the IRA provider and the fees and expenses attendant to the IRA.

The Department proposes a requirement that the automatic portability provider provide the administrator of participating plans with a description of the automatic portability program, including fees and expenses, that the administrator could use in fulfilling its SPD obligations, as relevant. The Department requests comments on whether the final rule should set forth specific content requirements for an automatic portability provider model notice.

(c) Notices to IRA Owner

This proposed regulation specifies two notices an automatic portability provider is required to send to IRA owners before an automatic portability transaction is executed and one notice after the automatic portability transaction is executed, as described below.

i. Initial Enrollment Notice

Section 120(c)(1) of the SECURE 2.0 Act authorizes the Secretary to require the automatic portability provider to provide a notice to IRA owners in advance of the pre-transaction notice specified in Code section 4975(f)(12)(B)(v). Consistent with this authority, this proposed regulation includes a requirement that an automatic portability provider provide an ''initial enrollment notice'' to the IRA owner no later than 15 calendar days after the IRA is enrolled in an arrangement that includes an automatic portability transaction component. The Department assumes that the date of enrollment will generally be the date that an IRA is established in connection with a mandatory distribution. However, for IRAs that were established

[33] *See generally* Cybersecurity Program Best Practices at *https://www.dol.gov/sites/dolgov/files/ebsa/key-topics/retirement-benefits/cybersecurity/best-practices.pdf;* Online Security Tips at *https://www.dol.gov/sites/dolgov/files/ebsa/key-topics/retirement-benefits/cybersecurity/online-security-tips.pdf;* and Tips for Hiring a Service Provider with Strong Cybersecurity Practices at *https://www.dol.gov/sites/dolgov/files/ebsa/key-topics/retirement-benefits/cybersecurity/tips-for-hiring-a-service-provider-with-strong-security-practices.pdf.*

prior to the existence of the new statutory exemption, or established and then later added into an automatic portability arrangement, the enrollment date may be a later date (*e.g.,* when the IRA provider begins acting as an automatic portability provider or engages an automatic portability provider to begin including the IRA in a locate-and-match service).

The Department requests comments regarding the 15-calendar-day timeframe for sending the initial enrollment notice, particularly if the automatic portability provider is not the provider of the IRA. In this regard, the Department requests comments about the process by which IRAs that are not established with or provided by the automatic portability provider would engage an automatic portability provider and how the automatic portability provider would ensure that such a notice would be provided.

The Department proposes that the initial enrollment notice would include a variety of information regarding the nature of the automatic portability transaction and additional aspects of the IRA arrangement that are required to be included in the pre-transaction notice, discussed below. The Department anticipates that this notice requirement could be satisfied by including the information specified in proposed paragraph (b)(5)(iv) in the notice required under Code section 401(a)(31)(B) upon the establishment of a Default IRA.

ii. Pre-Transaction Notice

Paragraph (b)(5)(iv) of the proposed regulation incorporates the statutory provisions of Code section 4975(f)(12)(B)(v) requiring the automatic portability provider to provide a pre-transaction notice to the IRA owner at least 60 days before an automatic portability transaction occurs with information describing the automatic portability transaction, fees to be received in connection with the transaction, the right to elect not to participate in an automatic portability transaction, distribution options, deadlines for making elections, a telephone number for the automatic portability provider, and the right to and procedures for designating a beneficiary.

The proposed regulation provides additional clarification regarding the timing of the pre-transaction notice by requiring that the notice be sent no earlier than 90 days in advance of the automatic portability transaction. This is intended to ensure that the notice is sent sufficiently close to the actual execution of the automatic portability transaction so that the assets of the IRA do not remain there for an unreasonable period waiting to be rolled-in to the transfer-in plan.

The Department seeks comments on the proposed pre-transaction notice and whether additional information should be required. The Department is particularly interested in comments regarding whether specific information should be provided to the IRA owner explaining the significance of transferring assets into an employer-sponsored plan as opposed to retaining those assets in an IRA, as well as any plain language examples to help the IRA owner better understand the various aspects of an automatic portability arrangement. Relatedly, the Department requests comment on whether model disclosures or model language for the pre-transaction notice would be helpful and encourages commenters who support a model disclosure or model language, model charts, or other formats submit suggestions for the model language, chart or format they believe would help ensure readability and accessibility for the target audience. The Department also requests comment on whether a final rule should specify a minimum amount of time that the IRA owner has to make an election to opt out of the automatic portability transaction, *e.g.,* no sooner than 10 days before the anticipated execution of the automatic portability transaction identified in the pre-transaction notice.

iii. Post-Transaction Notice

This post-transaction notice, which would occur after a transfer-in plan receives an individual's IRA funds, is the last notice that the automatic portability provider would be required to provide to the IRA owner or plan participant. Paragraph (b)(5)(v) of this proposed regulation incorporates the statutory requirements in 4975(f)(12)(B)(vi). The statute requires that no later than three business days after the completion of an automatic portability transaction, the automatic portability provider shall provide notice to the IRA owner of the actions taken by the automatic portability provider with respect to the IRA. The statute also requires the notice to include all relevant information regarding the location and amount of any transferred assets, a statement of fees charged against the IRA or transfer-in plan account in connection with the transfer, and a contact phone number for the automatic portability provider.

The proposed regulation provides some minor clarifying language intended to explain the Department's view regarding the information needed to satisfy the statutory language. For instance, the proposed regulation adds that (1) a description of the actions taken by the automatic portability provider specifically includes that the individual was matched with an account in a new employer plan, (2) relevant information regarding the amount of transferred assets includes the name of the employer and name of the plan where the assets were transferred, and (3) the telephone number required by the statutory text is a customer service telephone number.

The Department requests comment on whether model disclosures or model language for the post-transaction notice would be helpful and encourages commenters to submit language or formats they believe would help ensure readability and accessibility for the target audience.

(d) Consolidation of Automatic Portability Provider Notices With Other Disclosures

The Department understands that an automatic portability provider may also be the designated provider of Default IRAs for a transfer-out plan and may be providing notices required by the Code and/or the Department's Safe Harbor Regulation. To the extent that the automatic portability provider has been engaged to provide notices to participants in connection with mandatory distributions on behalf of employer-sponsored plans, the notices and disclosures to individuals required by the statutory exemption and this proposed regulation would not have to be provided separately. However, the automatic portability provider should take care to ensure that the information required by the notice provisions to individuals in this proposed regulation is clearly displayed to reduce possible confusion with other provided information.

(e) Accessibility of Disclosures to Participants and IRA Owners

Paragraph (b)(5)(vi) of this proposed regulation parallels the statutory text of Code section 4975(f)(12)(B)(vii) by requiring all required notices to participants and IRA owners to be written in a manner calculated to be understood by the average person and not include inaccurate or misleading statements. The proposed regulation includes provisions intended to clarify and explain this requirement. In the Department's view, the idea of an ''average person'' in the context of understanding the notices under the exemption should be read as the average person receiving the notices rather than an abstract concept of an average person at large. Accordingly, the proposed

regulation speaks in terms of the average intended recipient of the notices. The proposal also specifies that the disclosures must be accurate, not misleading,[34] and sufficiently comprehensive to apprise the individual of their rights and obligations under the automatic portability program, must not be formatted to have the effect of misleading, misinforming, or failing to inform the recipient, and be written in a culturally and linguistically appropriate manner (see discussion below). In fulfilling these requirements, the proposed regulation requires the automatic portability provider to exercise considered judgment and discretion by taking into account such factors as the level of comprehension and education of the typical intended recipient and the complexity of the terms of the program. Consideration of these factors will usually require the limitation or elimination of technical jargon and of long, complex sentences, the use of clarifying examples and illustrations, the use of clear cross references, and a table of contents. These proposed requirements are modeled on the Department's regulation governing the style and format of SPDs that plan administrators are required to provide plan participants and beneficiaries.[35]

(f) Culturally and Linguistically Appropriate Standards for Required Notices and Disclosures to Participants and IRA Owners

The proposed regulation would require that notices and disclosures to participants and IRA owners be provided in a culturally and linguistically appropriate manner in certain situations. The proposal essentially adopts the ACA standard for group health benefit notices.[36] Specifically, if the address of a recipient of a required notice or disclosure is in a county where 10 percent or more of the population is literate only in the same non-English language, the notice or disclosure must include a prominent statement in the relevant non-English language about the availability of language services. The automatic portability provider would also be required to provide a verbal customer assistance process in the non-English language and provide written notices in the non-English language upon request.

(g) Ensuring Participants and IRA Owners Receive Notices

Section 120(c)(10) of the SECURE 2.0 Act authorizes the Secretary to issue regulations to ensure that the participants and IRA owners, ''in fact, receive all required notices and disclosures.'' Furthermore, Section 120(c)(7) of the SECURE 2.0 Act grants the Secretary regulatory authority to require the automatic portability provider ''to take actions necessary to reasonably ensure that participant and beneficiary data is current and accurate.'' To this end, paragraph (b)(5)(vii) of the proposed regulation would require the automatic portability provider to adopt and implement prudent policies and procedures to ensure that it obtains individual participant and IRA owner data necessary to effectively administer the automatic portability program and that the participant and IRA owner data in its possession or control is current and accurate. The proposed regulation also specifies that notices and disclosures to participants and IRA owners must be made using methods that satisfy the disclosure requirements in 29 CFR 2520.104b–1(b). The regulation at 29 CFR 2520.104b–1(b) provides a general standard that covered materials shall be furnished using ''measures reasonably calculated to ensure actual receipt of the material by plan participants, beneficiaries and other specified individuals.'' The Department requests comments on how an automatic portability provider would handle undeliverable mail and whether specific additional regulatory protections should be established for individuals with respect to whom the automatic portability provider has received returned mail. The Department also invites comments on whether the regulation should specifically address electronic disclosure of notices and disclosures under the exemption, including how to deal with undeliverable electronic notices.

7. Frequency of Searches

The proposed regulation parallels the Code section 4975(f)(12)(B)(viii) requirement that the automatic portability provider query on at least a monthly basis whether any individual with an IRA has an account in a transfer-in plan. The Department believes that verification of the information used in connection with performing searches is important to carrying out the purposes of the statutory exemption. Accordingly, under the proposal, the automatic portability provider must perform ongoing participant address validation searches via automated checks of (1) National Change of Address records, (2) two separate commercial locator databases, and (3) any internal databases maintained by the automatic portability provider. If a valid address is not obtained from the automated checks, the automatic portability provider must also perform a manual internet-based search. The proposal would require these verification steps to be performed at least twice in the first year an account is entered into the automatic portability provider system and once a year thereafter. The Department invites comments on whether additional or different verification steps should be required and on whether a final regulation should specifically list other information to be used in the searches that may aid in validating a match, for example, beneficiary information. In the Department's view, the statutory exemption's description of the search requirement envisions the automatic portability provider taking reasonable steps to verify the accuracy of the information used for conducting the required searches.

The Department requests comment on whether the final regulations should permit the query to be performed by a partnering recordkeeper in addition to the automatic portability provider and how the automatic portability provider would share information with recordkeepers for purposes of running the query. If the Department permits this under the final regulations, the Department anticipates that the ultimate obligation to ensure the required searches are performed would remain with the automatic portability provider. The Department also requests comment on whether there should be specific parameters or obligations for partnering recordkeepers if they are permitted to run the queries. Finally, if any commenter believes partnering recordkeepers should be permitted to run queries, the Department requests any additional information that would support the need and rationale for permitting this under a final regulation.

8. Monitoring Transfers

The Department believes proper monitoring of automatic portability transactions by the transfer-in plan is also critical to ensuring the successful execution of the transactions, and, accordingly, the proposal includes a monitoring requirement. The Department believes general prudence obligations would require such monitoring but is including this

[34] The Department would consider it misleading, for example, for the automatic portability provider to include in notices to individuals any exculpatory clauses or indemnification provisions that are not permitted under this proposed regulation or by applicable law.

[35] 29 CFR 2520.102–2.

[36] *See, e.g.,* 29 CFR 2590.715–2715 and 2590.715–2719(e).

requirement in the proposed regulation pursuant to the general regulatory authority provided to the Department in section 120(c) of the SECURE 2.0 Act and the authority transferred to the Secretary under section 102 of Reorganization Plan No. 4 of 1978. Paragraph (b)(7) of the proposed regulation requires that the automatic portability provider ensure that each transfer-in plan for whom the automatic portability provider performs automatic portability transactions designates a plan official responsible for monitoring transfers into the plan and confirming that amounts received on behalf of a participant are invested properly. Under the proposal, amounts received would be deemed to be invested properly if made according to the participant's current investment election under the plan or, if no election is made or permitted, in the plan's qualified default investment alternative under 29 CFR 2550.404c–5 or in another investment selected by a fiduciary with respect to such plan.

9. Timeliness of Execution

Code section 4975(f)(12)(B)(ix) requires timely execution of transfers by requiring the automatic portability provider to transfer the liquidated account balance of the IRA as soon as practicable. Paragraph (b)(8) of the proposed regulation incorporates the statutory text and includes provisions intended to clarify the statutory requirement. First, the proposal clarifies the timeliness of execution is measured from the date after the final deadline passes for the affected individual to affirmatively elect not to participate in the transaction, as specified in the pre-transaction notice. The proposed regulation also provides that the automatic portability provider must follow timeframes formally established in policies and procedures, discussed in more detail below. The proposal does not include a specific timeframe for what would be considered ''as soon as practicable'' but requests comments on whether the final rule should include such a specific timeframe or other clarification of the standard.

10. Limitation on Exercise of Discretion and Policies and Procedures

Code section 4975(f)(12)(B)(x) provides that the automatic portability provider will neither have nor exercise discretion to affect the timing or amount of the transfer pursuant to an automatic portability transaction other than to deduct the appropriate fees. Paragraph (b)(9) of the proposed regulation incorporates the statutory limitation on discretion and expands upon the statutory text by specifying that an automatic portability provider will be deemed to satisfy the limited discretion requirement if it establishes, maintains, and follows policies and procedures regarding the process for executing automatic portability transactions. The policies and procedures must set specific standards and timeframes that are equally applied to all automatic portability transactions. The Department is proposing the policies and procedures to operationalize the limited discretion standard in accordance with the general regulatory authority granted to the Secretary under section 120(c) of the SECURE 2.0 Act and the authority transferred to the Secretary under section 102 of Reorganization Plan No. 4 of 1978. The policies and procedures are intended to ensure that the automatic portability provider is acting in accordance with its obligations under the exemption and these regulations and consistently with the intent of the statutory exemption. The Department also believes the policies and procedures will ensure that there is appropriate operational documentation by the automatic portability provider to support the audit, described below.

The policies and procedures must, at a minimum, specifically and prudently address: (1) the process to ensure that transfer-in plans designate a plan official that will be responsible for monitoring transfers into the plan due to automatic portability transactions; (2) the process and timing for liquidating the assets of the Default IRA to cash and closing the IRA; (3) the process for verifying and validating that the correct fees are withdrawn from the Default IRA; (4) the process and timing for transmitting assets to the transfer-in plan; (5) verifying the assets were received by the transfer-in plan; and (6) sending all notices to plan participants or individuals on whose behalf a Default IRA is established as required in this proposed regulation.

11. Audit and Corrections

(a) Audit and Audit Report

Code section 4975(f)(12)(B)(xi) includes a requirement for an annual audit to be conducted in accordance with regulations promulgated by the Secretary. The statute requires that an audit be conducted that demonstrates compliance with Code section 4975(f)(12) and any regulations thereunder and that identifies any instances of noncompliance with the statute or such regulations. The statute requires the automatic portability provider to submit a copy of the auditor's report to the Secretary in such form and manner as specified by the Secretary.

(b) Auditor and Auditor's Report

After consideration, the Department is proposing that the audit be an independently conducted audit to best ensure that the automatic portability provider is executing automatic portability transactions in a manner that is consistent with ERISA and that promotes the retirement security of workers. An auditor will be considered independent if: (1) the auditor is a person or an entity that the automatic portability provider does not own or control, and (2) the auditor does not derive more than two percent of its annual revenue from services provided directly or indirectly to the automatic portability provider or any of its affiliates. In addition, the auditor must have the appropriate technical training and proficiency necessary to carry out the audit. The Department invites comments regarding the two percent threshold. The Department believes the two percent threshold supports a presumption of independence but requests comment with supporting rationale if affected entities believe a higher threshold should be permitted. Additionally, the Department requests comment on what additional protections commenters would propose to support one or more higher thresholds.

Paragraph (c) of this proposed regulation would also require the independent auditor to review the automatic portability provider's policies and procedures as well as representative samples of the required disclosures and related automatic portability transactions sufficient for the auditor to make the required audit determinations and findings. The findings must be memorialized in a written audit report, which would include the following: (1) the number of completed automatic portability transactions during the audit period; (2) whether the required notices met the timing and content requirements of these regulations; (3) whether the required notices were written and delivered in a manner reasonably designed to ensure that affected individuals would both receive and understand the notices; (4) whether any required notices were returned as undeliverable and what steps were taken by the automatic portability provider to address undeliverable notices; (5) whether the appropriate transfer-in plan accounts received all the assets due as a result of the automatic portability transactions; (6) a summary of all fees charged by the automatic portability provider (and any

affiliates) for services in connection with automatic portability transactions, including whether those fees increased since the last report; (7) whether the fees and compensation received by the automatic portability provider (including its affiliates) are consistent with the fees authorized by the appropriate fiduciaries and did not exceed reasonable compensation; (8) whether all requirements of section 4975(f)(12) and these proposed regulations were satisfied with respect to: (a) the policies and procedures and (b) the transactions and disclosures that were reviewed; (9) a summary of compliance issues reported to or discovered by the auditor, the auditor's recommendations, and the extent to which the automatic portability provider has addressed or is addressing the issues pursuant to the correction procedures; (10) any other recommendations from the auditor to improve the policies and procedures and overall execution of automatic portability transactions; and (11) a description of the auditor's audit methodology. In order to assist the auditor in the review, the automatic portability provider is required to grant the auditor access to its automatic portability operations and records (including, as necessary, the operations and records of its affiliates) sufficient to allow the auditor to make the determinations and findings noted above.

Section 120(d) of the SECURE 2.0 Act requires the Secretary to provide periodic reports to Congress that include a variety of information related to automatic portability transactions and portability arrangements more generally. The Department envisions that most of the information required for this report to Congress will come from information included in the audit reports filed by automatic portability providers. Therefore, the Department is proposing that the written audit report would also include: (1) the number of automatic rollovers of mandatory distributions from qualified plans into Default IRAs that are included in the automatic portability program; [37] (2) the number of completed automatic portability transactions; and (3) the number of Default IRAs separately in each of the following categories: (a) which have been transferred to designated beneficiaries, (b) for which the automatic portability provider is searching for next of kin due to a deceased IRA owner without a designated beneficiary, and (c) that were reduced to a zero balance while in the automatic portability provider's custody.

If the automatic portability provider does not have direct access to any information required to be included in the audit report, the automatic portability provider would be required, as a condition of its services, to obtain appropriate information from partnering recordkeepers and participating plans in their possession or control, on request from the automatic portability provider, so it can be provided to the independent auditor and incorporated into the audit report.[38] The Department seeks comments on the availability of any information not otherwise directly accessible by the automatic portability provider and if there are any barriers to obtaining this information from participating recordkeepers or employer-sponsored plans. The Department also seeks comment on whether there are other readily available sources for such information that would be accessible to the Department.

i. Timing of Audit Report & Certification

This proposed regulation would require the independent auditor to complete the audit within 180 calendar days following the annual period to which the audit relates. The automatic portability provider must then submit a copy of the written audit report to the Department at *auto-portabilityaudit@dol.gov* within 30 calendar days of completion. The automatic portability provider's submission to the Department must also include a certification, under penalty of perjury, that the automatic portability provider reviewed the audit report and that, to the best of its knowledge at the time, it has addressed, corrected, or remedied any noncompliance or inadequacy, or has an appropriate written plan to address any such issues identified in the audit report.

(c) Corrections

Section 120(c)(9) specifically grants the Secretary authority to provide for correction procedures in the event the auditor determines the automatic portability provider was not in compliance with the statute and related regulations. To effectuate the intent of this provision, the Department is proposing three components for corrections.

First, the Department is providing an opportunity for an automatic portability provider to make certain self-corrections. Under paragraph (c)(9)(i), the Department would not consider a non-exempt prohibited transaction to have occurred due to a violation of the requirements of Code section 4975(f)(12) and these regulations with respect to a transaction, provided that either the violation does not result in investment losses to the Default IRA or the automatic portability provider made the IRA whole for any resulting losses. In order to self-correct in those situations, the automatic portability provider would be required to correct the violation and document the correction in writing within 30 calendar days of correction. The correction would only be permitted if it occurs no later than 90 calendar days after the automatic portability provider learned of the violation or reasonably should have learned of the violation. Finally, all instances of noncompliance and accompanying corrections would be required to be reported in writing to the auditor and the auditor would have to agree that the transaction did not result in investment losses or that the IRA was made whole. The Department solicits comments on whether specific criteria should be included in the final rule on measuring investment losses and make whole requirements.

The second component for corrections involves additional recommendations from the auditor. If the auditor determines that the automatic portability provider was not in compliance with any provision of Code section 4975(f)(12) or these regulations during the audit period, the auditor must identify the instances of noncompliance in the audit report along with its recommended corrections. An automatic portability provider would not be treated as having failed to comply with any provision of Code section 4975(f)(12) or these regulations, provided it corrects any instance of noncompliance identified by the auditor as soon as reasonably practicable according to the auditor's recommendations.

The Department believes that the first two components for corrections will provide an automatic portability provider with additional incentive to take the audit process seriously, timely identify and correct violations of Code section 4975(f)(12) and these proposed regulations, and use the audit process to correct deficiencies in the automatic portability provider's operations to avoid potential future violations,

[37] Sec. 120(d)(1)(A)(i) uses the term ''automatic cash outs'' but the Department believes, based on the context, that it is referring to automatic rollovers of mandatory distributions as that term is used throughout this preamble.

[38] The automatic portability provider may not have direct access to all the information identified in section 120(d) of the SECURE 2.0 Act if, for instance, the automatic portability provider is not the provider or custodian of all IRAs for which it will execute automatic portability transactions.

penalties, losses to IRA owners/plan participants, and lawsuits.

The third and final component for corrections would involve the Secretary requiring an automatic portability provider to submit to supplemental audits and corrective actions if significant compliance issues are uncovered. The Department is proposing the following scenarios involving the automatic portability provider or an affiliate under which the Secretary may impose additional corrective actions: (1) engaging in a systematic pattern or practice of violating any provision of section 4975(f)(12) or an implementing regulation; (2) intentionally violating any provision of section 4975(f)(12) or an implementing regulation; (3) providing materially misleading information to the Secretary, Secretary of the Treasury, or the auditor in connection with automatic portability transactions; (4) a foreign or domestic criminal conviction involving or arising out of the conduct of the automatic portability program or any automatic portability transaction; or (5) a foreign (or foreign equivalent) [39] or domestic criminal conviction for any felony involving the following crimes: larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, misappropriation of funds or securities, or conspiracy to commit any such crimes or a crime in which any of the foregoing crimes is an element.

12. Automatic Portability Provider website

The proposed regulation in paragraph (d) parallels the statutory language in Code section 4975(f)(12)(B)(xii) requiring the automatic portability provider to: (1) maintain a website which contains a list of recordkeepers with respect to which the automatic portability provider carries out automatic portability transactions and (2) list all fees paid to the automatic portability provider. Under the proposed regulation the list would have to include the fees and the identity of the party or account that is paying the particular fee. The proposal also requires that the website include the number of plans and participants covered by each recordkeeper. The Department solicits comments on whether other documents or materials should be required to be posted on the website, for example, a copy of the independent auditor's audit report redacted as needed to protect confidential business information, if any, in the audit report.

Because the Department anticipates that automatic portability providers may include a range of other services and information, customer support features, and functionalities in addition to automatic portability transactions, the proposal would also require the website to display automatic portability transaction-related information in a way that differentiates that information from other information or elements of the website (*e.g.,* separately identifying the automatic portability transaction fees and services from fees and services in connection with establishing and custody of a Default IRA).

The Department intends that these website disclosures and additional parameters will make it easier for plan sponsors to independently assess the overall cost of an automatic portability arrangement in connection with signing up for an automatic portability transaction service covered by the statutory exemption and this regulation.

13. Limitations on Exculpatory Provisions

Section 120(c)(6) of the SECURE 2.0 Act specifically provides the Secretary with the authority to place limitations on exculpatory provisions due to an improper transfer of Default IRA assets. Therefore, the Department is proposing that the automatic portability provider may not include exculpatory provisions in its contracts disclaiming or limiting the automatic portability provider's liability in the event that the automatic portability transaction results in an improper roll-in to the transfer-in plan. However, this requirement would not prohibit disclaimers for liability caused by an error, misrepresentation, or misconduct of a party independent of the automatic portability provider and its affiliates, or damages arising from acts outside the control of the automatic portability provider. Section 120(c)(6) of the SECURE 2.0 Act does not specifically address other exculpatory provisions. The Department requests comments on whether the prohibition on exculpatory provisions should be broader and include violations of the prohibited transaction provisions in Code section 4975 generally and ERISA in connection with any conduct of the automatic portability provider or an affiliate that is subject to Title I.

14. Record Retention

This proposed regulation incorporates the statutory language in Code section 4975(f)(12)(B)(xi)(I) regarding record retention by requiring that an automatic portability provider maintain, for not less than six years, records sufficient to demonstrate compliance with the requirements of the statute and this proposed regulation and make them available to authorized employees of the Department and the Department of the Treasury within 30 calendar days of a written request. This proposal also includes clarifying language regarding the record retention requirement and its impact on the prohibited transaction relief provided by Code section 4975(d)(25), which clarifying language the Department has frequently included in administrative prohibited transaction exemptions. First, the proposal provides that no prohibited transaction will be considered to have occurred if, solely because of circumstances beyond the control of the automatic portability provider, the records are lost or destroyed before the six-year period ends (*e.g.,* due to a natural disaster). Second, an automatic portability provider's failure to maintain the records necessary to determine whether the conditions of Code section 4975(d)(25) and this regulation have been met will result in the loss of the relief provided under this exemption only for the transaction or transactions for which such records are missing or have not been maintained. Such failure does not affect the relief for other transactions if the automatic portability provider maintains records for such other transactions in compliance with the record retention requirements.

15. Definitions

The Department included three definitions in proposed paragraph (g). The proposed definition of ''affiliate'' is consistent with the Department's definition of affiliate in many other regulations.[40] Likewise, the definition of ''control'' is intended to be consistent with the Department's use of that term in other regulations.[41] The definition of ''individual retirement plan'' refers to an individual retirement account or annuity described in Code section

[39] The Department does not expect that foreign crimes will arise frequently in connection with automatic portability providers, but if they do, impacted entities may contact the Department for guidance. Additionally, the Department requests comment regarding whether any additional process should be provided for foreign crimes before the Department imposes supplemental audits or corrective actions, particularly those foreign crimes that raise issues regarding their equivalence to a domestic crime.

[40] A person or entity is an ''affiliate'' if, directly or indirectly (through one or more intermediaries) it controls, is controlled by, or is under common control with such person or entity; or is an officer, director, or employee of, or partner in, such person or entity. Unless otherwise specified, an ''affiliate'' refers to an affiliate of the automatic portability provider.

[41] The term ''control'' means the power to exercise a controlling influence over the management or policies of an entity or person other than an individual.

408(a) or 408(b). The Department requests comment on whether any other definitions may be necessary to provide additional clarity to the proposed regulation.[42]

E. Request for Public Comments

The Department invites comments from interested persons on all facets of the proposed rule. Commenters are free to express their views not only on the specific provisions of the proposal as set forth in this document, but on any issues germane to the subject matter of the proposal. Comments should be submitted in accordance with the instructions at the beginning of this document.

Without limiting the generality of the above request for comments, the Department requests comments on whether the rule should include provisions that specially address issues related to IRA beneficiaries. The statutory provisions envision an automatic portability transaction as a transfer of assets ''made from an individual retirement plan which is established on behalf of an individual and to which amounts were transferred under section 401(a)(31)(B)(i)'' to an eligible employer-sponsored retirement plan in which ''such individual is an active participant.'' The statutory provisions do not expressly reference moving funds for a beneficiary from a default IRA to an employer-sponsored plan in which the beneficiary participates. The statutory provisions similarly require notices to ''the individual on whose behalf the individual retirement plan . . . is established.'' Nonetheless, the Department notes the recordkeeping provisions in the statute expressly reference the automatic portability provider taking steps to ensure it has accurate beneficiary information and the statutory provisions on the required Report to Congress call for separate identification of IRAs transferred to designated beneficiaries and IRAs for which a next of kin is being identified after the death of the IRA owner without a designated beneficiary. Accordingly, the Department is interested in comments on whether the final regulation should address specific beneficiary issues, and, if the commenter believes it should, the Department asks that the commenter identify the issue or issues and include recommendations on how the issue or issues should be addressed in the regulation.

The Department also specifically requests comments on exemptive relief for Default IRAs involving rollovers of mandatory distributions with a value of $1,000 or less. The proposal does not expressly include such mandatory distributions in light of the SECURE 2.0 Act amendment of Code section 4975 defining the term ''automatic portability transaction'' to mean a transaction in which mandatory distributions pursuant to Code section 401(a)(31)(B)(i) from an employer-sponsored retirement plan to an IRA established on behalf of an individual are subsequently transferred to an eligible employer-sponsored plan in which such individual is an active participant, after such individual has been given advance notice of the transfer and has not affirmatively opted out of such transfer. As noted elsewhere in this document, Code section 401(a)(31)(B)(i) refers to distributions of nonforfeitable accrued benefits the present value of which is in excess of $1,000 but less than or equal to $7,000. The Department confronted a similar issue in implementing section 657(c)(2)(A) of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), which directed the Department to issue regulations providing safe harbors under which (1) a plan administrator's designation of an institution to receive the automatic rollover, and (2) the initial investment choice for the rolled-over funds would be deemed to satisfy the fiduciary responsibility provisions of section 404(a) of ERISA. Section 657 of EGTRRA also referenced Code section 401(a)(31)(B) automatic rollovers. However, in its final rule in 2004, the Department, in response to public comments, included mandatory distribution amounts of $1,000 or less noting that, although not described in Code section 401(a)(31)(B), tax-qualified retirement plans are permitted to distribute to a separating participant without the participant's consent provided the present value of the participant's vested accrued benefit did not exceed the maximum value at that time of $5,000.[43] The Department said that, after taking into account the purpose and provisions of the safe harbor regulation, it was persuaded that application of the safe harbor to rollovers of mandatory distributions of $1,000 or less was appropriate because the availability of the safe harbor for such distributions might increase the likelihood that such amounts will be rolled over to individual retirement plans and thereby may promote the preservation of retirement assets without compromising the interests of the participants on whose behalf such rollovers are made.[44] In addition, some plans may find it advisable to provide for automatic rollovers of all sizes of small accounts to avoid the issues that arise when distribution checks remain uncashed.[45] Thus, in light of the fact that the regulatory exemption in Code section 4975 established by the SECURE 2.0 Act specifically references 401(a)(31)(B), the Department is interested in public comments on whether it should use its general exemption authority under ERISA section 408(a) to provide parallel exemptive relief for mandatory distributions of $1,000 or less for reasons similar to those noted above in connection with the Department's automatic rollover safe harbor in 29 CFR 2550.404a–2.

F. Regulatory Impact Analysis

The Department has examined the effects of this proposed rule as required by Executive Order 12866,[46] Executive Order 13563,[47] the Congressional Review Act,[48] the Paperwork Reduction Act of 1995,[49] the Regulatory Flexibility Act,[50] section 202 of the Unfunded Mandates Reform Act of 1995,[51] and Executive Order 13132.[52]

1. Executive Order 12866 (Regulatory Planning and Review), Executive Order 14094 (Modernizing Regulatory Review), and 13563 (Improving Regulation and Regulatory Review)

Under E.O. 12866 (as amended by Executive Order 14094), the Office of Management and Budget (OMB)'s Office of Information and Regulatory Affairs determines whether a regulatory action is significant and, therefore, subject to the requirements of the E.O. and review by OMB. 58 FR 51735. As amended by Executive Order 14094, section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as a regulatory action that is likely to result

[42] As one example, should the Department define ''active participant'' or is this term generally understood?

[43] See 29 CFR 2550.404a–2(d); Final Rule on Fiduciary Responsibility Under the Employee Retirement Income Security Act of 1974 Automatic Rollover Safe Harbor, 69 FR 58018 (Sept. 28, 2004).

[44] Id. at 58019.

[45] See ''The Benefits of Mandatory Distributions,'' A White Paper by Fred Reish and Bruce Ashton (2013)(available at *https://fredreish.com/wp-content/uploads/2013/03/The-Benefits-of-Mandatory-Distributions-A-White-Paper-February-2013_NEW.pdf*).

[46] Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993).

[47] Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011).

[48] 5 U.S.C. 804(2) (1996).

[49] 44 U.S.C. 3506(c)(2)(A) (1995).

[50] 5 U.S.C. 601 *et seq.* (1980).

[51] 2 U.S.C. 1501 *et seq.* (1995).

[52] Federalism, 64 FR 43255 (Aug. 10, 1999).

in a rule that may: (1) have an annual effect on the economy of $200 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, territorial, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or (4) raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in the Executive order. OMB has determined that this revision is a significant regulatory action under section 3(f)(1) of E.O. 12866.

Executive Order 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitative values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

2. Need for Regulation

When American workers change jobs, they often encounter frictions that result in reduced retirement savings in aggregate. This regulation will alleviate some of those frictions, resulting in more retirement savings, which will improve Americans' preparation for retirement. This is particularly beneficial given the wider context that many workers have insufficient retirement savings. Only 57 percent of households headed by 55–64 year olds held any retirement savings accounts in 2022, and the median amount in those accounts was $185,000.[53] The Federal Reserve reports that only one-third of Americans view their retirement savings plan as sufficient to meet their needs in retirement.[54] This is consistent with projections by VanDerhei (2019) showing that about 41 percent of households ages 35 to 64 will run short of money in retirement.[55] Similarly, Brown et al. (2018) find that nearly 77 percent of Americans are behind in saving for retirement given their age and income.[56]

Previous generations of American workers who had a retirement plan usually had a defined benefit (DB) pension plan that promised fixed payments to them upon retirement. An employee's retirement benefit under a DB plan often is based on a percentage of their final year's compensation multiplied by their total years of employment with the sponsoring employer.[57] Workers who changed jobs and moved to another plan, however, received less benefits from DB plans, as these plans often had a five-year cliff vesting policy, so a worker who stayed at a job for fewer than five years received no retirement benefits from that job. Even when a worker accrued benefits under a former employer's DB plan, the effects of inflation often meant that their final year's salary earned from their former employer tended to be lower than their final year's salary earned from a subsequent employer before retirement. Since the employee's final year's salary is a key factor in the benefit formula, they would receive lower lifelong pension benefits as a result of switching jobs even if they worked the same number of years at the same salaries.

In recent decades defined contribution (DC) plans have supplanted DB plans as the most prevalent type of pension plan provided to workers.[58] DC plans, such as 401(k) plans, base their benefit on employer and employee contributions to an individual's account and the investment earnings on their account balance. Currently, 49 percent of private industry workers (59 percent of full-time private industry workers) are participating in a DC plan.[59] For workers that change jobs frequently, DC plans have certain portability advantages over traditional DB plans. Public policies such as this new automatic portability statutory exemption and this proposed regulation can further benefit participants by facilitating portability among DC plans and IRAs.

In the current retirement system where employer-sponsored DC plans are the primary vehicle available for employees to save for retirement, an employee separating from service with an employer may be suddenly confronted with an important financial decision regarding how to handle retirement assets they have accrued in their employer's DC plan. Making it simpler for employees to consolidate their retirement accounts and maintain their tax-favored status can improve retirement security for American workers.

Currently, employees who change jobs generally have the following four options for handling their retirement assets:

1. Leave the assets in their former employer's plan. The separating employee can do this if the value of their accrued benefit under the plan meets any threshold imposed by the plan, which can be at most $7,000 beginning in 2024. (A participant might choose this option because they find the former plan's services, investments, and fees to be attractive or because of simple inattention.)

2. Roll over their savings into a retirement plan sponsored by their new employer.

3. Roll over their assets into an IRA.

4. Cash out the balance.

The first three of these options, where the assets are in a plan or an IRA, retain their tax-preferred status. A cashout, on the other hand, results in the loss of tax-preferred status for those assets. It is no longer earning investment returns that are tax-deferred. The funds are distributed directly to the employee and are subject to regular income taxes. Additionally, a 10 percent penalty tax applies if the employee is under age 55 throughout the year in which they terminate service with the employer and if the employee does not qualify for an exception.

When a plan participant separates from service with an employer with an account balance in the former employer's DC plan, the former employer has the option to immediately

[53] 2022 Survey of Consumer Finance. ''Retirement Account by Age of Reference Person,'' The Fed—Table: Survey of Consumer Finances, 1989—2022 (federalreserve.gov).

[54] Federal Reserve. ''Survey of Household Economics and Decisionmaking.'' 2022.

[55] Jack VanDerhei, ''Retirement Savings Shortfalls: Evidence from EBRI's 2019 Retirement Security Projection Model.'' Employee Benefit Research Institute (March 7, 2019).

[56] Jennifer Brown, Joelle Saad-Lessler, and Diane Oakley. ''Retirement in America: Out of Reach for Working Americans?'' National Institute on Retirement Security. 2018.

[57] U.S. Bureau of Labor Statistics, Employee Benefits, ''Retirement plan provisions for private industry workers in the United States,'' Table 2, reference year 2022, (April, 2023). Available at: *https://www.bls.gov/ebs/publications/retirement-plan-provisions-for-private-industry-workers-2022.htm.*

[58] Employee Benefits Security Administration, *Private Pension Plan Bulletin Historical Tables and Graphs 1975–2021,* (September 2023), Table E4, (September 2023), *https://www.dol.gov/sites/dolgov/files/ebsa/researchers/statistics/retirement-bulletins/private-pension-plan-bulletin-historical-tables-and-graphs.pdf.*

[59] U.S. Bureau of Labor Statistics, National Compensation Survey, Series: NBU29000000000000026313 & NBU29000000000000526313, (March, 2023), Available at: *https://data.bls.gov/cgi-bin/srgate.*

cash out account balances of $5,000 or less without the participant's consent (if the plan has a provision allowing the immediate distribution).[60] These distributions are a form of cashout and are often referred to as ''mandatory distributions.'' If, however, the participant's account balance is between $1,001 and $5,000, and the participant does not elect to have the account balance paid to an eligible retirement plan or receive the distribution directly in cash, then the plan administrator of the former employer's plan must transfer such account balance to a so-called ''Default IRA'' if this is required by the plan's provisions. These distributions are commonly referred to as ''force-outs'' or ''automatic rollovers of mandatory distributions.'' [61] As part of the SECURE 2.0 Act, Congress raised the $5,000 threshold to $7,000 (effective for distributions occurring after December 31, 2023).[62]

Default IRAs, while intended to preserve retirement assets in conservatively managed accounts, typically yield only minimal returns for investors while often imposing considerable fees.[63] A 2014 study by the Government Accountability Office (GAO) found that, ''fees outpaced returns in most of the [forced-out] IRAs analyzed'' and that account balances ''tended to decrease over time.'' [64] GAO also found the average return to be less than two percent for money market funds, which are typical investments for Default IRAs. In contrast, many accounts rolled into a worker's new employer's plan likely will be invested in the plan's default investment, usually target date funds, which typically outpace the return on money market funds. Observing data on small balance rollover IRAs in general suggests that most Default IRA owners will stay invested in money market funds for a substantial length of time; recent data suggest roughly 40 percent of these accounts remain in principal-preserving investments for at least 10 years.[65]

With job turnover, a single individual may end up with multiple Default IRAs, further complicating the management of their retirement account assets, and in many cases, exposing participants to duplicative fees that might otherwise have been avoided if their assets were consolidated into a single account. Also, these Default IRAs are established by employers on behalf of non-responsive participants; therefore, they are more susceptible to being abandoned or forgotten by participants.

Cashouts affect participants by removing their assets from tax-favored retirement accounts. A 2023 study by Wang, Zhai, and Lynch found that over 40 percent of separating employees report cashing out at least some of their retirement account balance, consistent with reporting from numerous recordkeepers suggesting a cashout rate of approximately 40 percent among separating participants with account balances below $5,000.[66] VanDerhei (2019) analyzes individuals age 35 to 64, projects forward their main sources of retirement resources, estimates how much they will fall short, aggregates that across all individuals, and calculates a present value, estimating an aggregate retirement savings shortfall in excess of $3 trillion. In light of this shortfall, reducing cashouts and retaining assets in the retirement system is an important retirement policy objective, particularly for those workers with small balance accounts who may be struggling to accumulate significant retirement assets.[67]

Taking a cashout or taking no action at all may seem like the simplest and most expedient courses of action for a small-balance account participant upon job separation but can result in sub-optimal outcomes. A 2013 GAO study found that the rollover process was complex, inefficient, and burdensome for participants.[68] These findings were reinforced by a 2019 GAO report, which suggested that frictions in the rollover process likely contributed to participants cashing out their accounts prematurely.[69] Both studies advised that improving the processes for account consolidation after job separation is imperative to reducing the leakage of assets from the retirement system.

Plan account portability is thus integral to the retention and accumulation of retirement assets for workers. Measures to improve account portability would serve to reduce participant losses due to cashouts (and the associated taxes and penalties for early withdrawals), lost accounts, duplicative fees arising from multiple accounts, and boost average investment return.

The SECURE 2.0 Act includes a new statutory prohibited transaction exemption that seeks to improve retirement plan portability by permitting an automatic portability provider to perform automatic portability transactions for participants with Default IRA accounts established as a result of a mandatory distribution from a former employer's plan if the individual does not respond to their former plan's administrator's notices.[70] If an automatic portability provider meets the conditions of the statutory exemption, it can transfer assets from a worker's Default IRA to their active account in their new employer's DC plan. The proposed rule would implement the new statutory exemption.

3. Baseline and Post Statute and Regulation Scenarios

Prior to the passage of SECURE 2.0 Act, RCH operated in the automatic portability marketplace using PTE 2019–02 which is the ''baseline'' scenario for this analysis. As discussed previously, the PTE was issued for a five-year term. The need to renew the PTE, and the uncertainty associated with its continual renewal, creates uncertainty for the marketplace. The baseline includes the assumptions of future renewals of PTE 2019–02 for RCH and the mandatory distribution threshold to be at the pre-statute level of $5,000. SECURE 2.0 Act raised the mandatory distribution threshold for a plan administrator to transfer assets into a Default IRA from $5,000 to $7,000 and creates a statutory exemption that eliminated the uncertainty in the marketplace about the continued existence of PTE 2019–02, which should encourage the marketplace to expand its reach in the Defined Contribution universe.[71] The analysis looks at the

[60] Code sections 411(a)(11) and 417(e).

[61] Code section 401(a)(31)(B)(i).

[62] *See* SECURE 2.0 Act, Sec. 304.

[63] Government Accountability Office (GAO). ''401(k) Plans: Greater Protections Needed for Forced Transfers and Inactive Accounts.'' (2014).

[64] *Id.*

[65] Lucas Goodman, Anita Mukherjee, and Shanthi Ramnath (2023): ''Set it and forget it? Financing retirement in an age of defaults'', *Journal of Financial Economics,* vol 148, p.47–68. Investment Company Institute. ''The IRA Investor Profile: Traditional IRA Investors' Activity, 2007–2016.'' (September 2018), Appendix: Figure A.2, Page 68.

[66] Yanwen Wang, Muxin Zhai, and John G. Lynch, Jr. ''Cashing Out Retirement Savings at Job Separation.'' (2023). Vanguard. ''How America Saves.'' 2023. Alight. ''Universe Benchmarks Report: How Workers Are Saving and Investing in Defined Contribution Plans.'' (2023). Alight. ''Distributions from Defined Contribution Plans: What Do Workers Do with their Retirement Savings After They Leave Their Employers? A Deep Dive into Post-Termination Behavior, 2008–2017.'' (2019). Lucus Goodman, Jacob Mortenson, Kathleen Mackie, and Heidi R. Schramm, ''Leakage from Retirement Savings Accounts in the United States,'' (2021) *National Tax Journal,* 74(3), 689–719.

[67] VanDerhei, ''Retirement Savings Shortfalls,'' 2019.

[68] Government Accountability Office. ''401(k) Plans: Labor and IRS Could Improve the Rollover Process for Participants.'' Report to Congressional Requesters. (2013).

[69] Government Accountability Office. ''Retirement Savings: Additional Data Analysis Could Provide Insight into Early Withdrawals.'' Report to the Chairman, Special Committee on Aging, U.S. Senate. (2019).

[70] Internal Revenue Code section 4975(d)(25).

[71] Brian Croce, ''SECURE 2.0 Enshrines Auto Portability Into Law,'' *Pensions and Investments,*

combined impacts of the SECURE 2.0 Act and the proposed regulations and does not distinguish between the two.

The baseline assumes that the recordkeepers currently performing automatic portability transactions continue to be the only recordkeepers providing automatic portability transactions in the future, therefore the percent of plans and accounts covered by automatic portability remains unchanged at 65 percent. However, the percent of plans and accounts covered by automatic portability is expected to increase in the post-rule and regulation scenario, increasing from 65 percent to 90 percent by year 10.[72] This is actually a simplification, the average of a number that likely would have grown slightly in the absence of the Secure 2.0 Act. Before passage of the Act, in October 2022, there were only three recordkeepers who had joined the automatic portability consortium. of 2022, the Secure 2.0 Act was signed in late December 2022, and very soon shortly thereafter other large recordkeepers joined. While much of this growth in consortium members is likely related to the prospect and enactment of legislation, there might have been some growth even without the legislation. The inclusion of automatic portability in the Secure 2.0 Act increases awareness of the program and that publicity may promote growth.

This assumption is based on 2016 testimony by RCH and EBRI before the ERISA Advisory Council wherein they stated that the ability to locate and match accounts to conduct automatic portability transfers is ''highly dependent on market adoption.'' [73] As the network grows, there is a greater likelihood of being able to match a separating participant with their new employer's plan. As a result, the benefits of belonging to the network increase, encouraging more recordkeepers to join. It is anticipated that as a result of the legislation and the reduced uncertainty, more recordkeepers will join the consortium, and this dramatic growth is reflected in the post-rule estimates. Section 9 ''Uncertainty'' provides an alternative estimate reflecting growth in the number of recordkeepers joining the network in the baseline scenario. The Department requests comment on the portion of the expansion in recordkeepers joining the network that would be attributable to the proposal.

4. Affected Entities

4.1. Automatic Portability Providers

Retirement Clearinghouse (RCH), originally founded as RolloverSystems in 2001, was the first company to approach the Department for sub-regulatory guidance and prohibited transaction relief to offer an automatic portability program to plans. RCH asserted that its services would facilitate automatic rollovers into Default IRAs from accounts in plans of individuals' former employers that are eligible for mandatory distributions under Code section 401(a)(31)(B), automatic rollovers into Default IRAs of account balances from terminated DC plans, and automatic roll-in of funds held in Default IRAs to an individual account plan maintained by the IRA owner's new employer when the Default IRA owner changes jobs and has an account in their new employer's DC plan. In 2019, the Department issued PTE 2019–02, an individual prohibited transaction exemption permitting RCH to receive certain fees in connection with the transfer of an individual's Default IRA to the individual's account in a new employer-sponsored plan, without the individual's affirmative consent.[74]

Since then, RCH's footprint in the automatic portability space has grown with its formation of the Portability Services Network (PSN). This network currently consists of founding owning members RCH and six recordkeepers: Alight, Empower, Fidelity, Principal, TIAA, and Vanguard, and it can incorporate an unlimited number of additional member recordkeepers. While PSN operates as a separate entity from RCH that is controlled by RCH's founding owning members, PSN solely relies on the technological infrastructure and operations established by RCH.[75] PSN's website currently states that it does not charge a fee to recordkeepers or plan sponsors for its automatic portability services; instead, it charges participants a one-time fee when their account balances are transferred into a new employer's plan. Currently, the maximum transfer fee is $30, and the fee could be lower for smaller accounts.[76]

The automatic portability provider market is new and complex. Therefore, there is significant uncertainty regarding how many entities will offer automatic portability services in the future and how the automatic portability marketplace will evolve. Barriers to entry exist in the business model, because entities must have sufficient access to plan and IRA participant data and information systems technology that would allow it to match a worker's default IRA with their plan account and transfer the employee's Default IRA to their new employer's plan. The larger the amount of data available to the automatic portability provider, the more successful it will be in matching participants' Default IRAs with their active accounts in a new employer's plan.

Based on the best available data, the Department estimates that PSN currently covers more than 60 percent of account holders in large DC plans [77] and that its market share is likely to increase further due to the new statutory prohibited transaction exemption. Due to the aforementioned barriers to entry for potential automatic portability providers, the Department is unaware of any entities other than PSN that are currently planning to become an automatic portability provider in reliance on Code section 4975(d)(25).[78] Therefore, for purposes of this analysis, the Department assumes that PSN will be the only entity providing automatic portability provider services pursuant to the statutory exemption. The Department assumes this will be the case even though RCH was granted PTE 2019–02, because the individual exemption has a limited five-year term that expires on July 31, 2024, while the

(January 27, 2023) at *https://www.pionline.com/retirement-plans/secure-20-enshrines-auto-portability-law#:~:text=The%20SECURE%202.0%20provision%20stipulates,sell%20data%20relating%20to%20the.*

[72] In other words, for an affected participant who changes jobs in year 10, there is a 90 percent chance that their former plan has a recordkeeper that belongs to PSN and also a 90 percent chance that their new plan has a recordkeeper that belongs to PSN. This means that 81 percent of the workers who switch from one DC plan to another in year 10, have a small balance account, and do not take any affirmative action, would experience an automatic portability transaction.

[73] Retirement Clearinghouse, LLC, Employee Benefit Research Institute, and contributor Boston Research Technologies. ''Auto Portability Research & Simulation: Automating Plan-to-Plan Transfers for Small Accounts.'' Consolidated Testimony in front of the ERISA Advisory Council, June 8, 2016.

[74] *See* 83 FR 55741 (Nov. 7, 2018) (proposed exemption) and 84 FR 37337 (July 31, 2019) (granted exemption).

[75] Portability Services Network, *Our Structure,* (2023), *https://psn1.com/learning-center/about-psn/structure-of-psn.*

[76] Portability Services Network, *Our Fees,* (2023), *https://psn1.com/learning-center/about-psn/what-are-psns-fees#:~:text=Key%20aspects%20of%20PSN's%20fee,be%20processed%20at%20no%20charge.*

[77] Plans classified as large constitute nearly 90 percent of account holders in plans required to file the Form 5500 and must submit the Schedule C of the Form 5500, which covers service providers, such as recordkeepers. Plans considered small do not report this information. Calculation based on tabulations of the 2021 EBSA Private Pension Plan Bulletin Research File.

[78] The Department is aware of one additional entity that had expressed interest in becoming an automatic portability provider; however, the Department understands this entity is no longer moving ahead with plans to become an automatic portability provider.

statutory exemption does not, and RCH would have to request additional relief from the Department to continue relying on PTE 2019–02 after its five-year term expires. If, counter to the Department's assumption, it turns out that there is more than one automatic portability provider, the Department anticipates that the number of automatic portability providers would be very small because of the barriers to entry. They might specialize by geography or by types of plan; for example, one automatic portability provider might specialize in plans for government employees. It seems likely that their networks would overlap so both automatic portability providers could be successful in making many matches. The Department welcomes comments regarding how many automatic portability providers there would be, as well as data and other information that will allow the Department to further assess how the automatic portability marketplace will develop.

4.2. Recordkeepers

As discussed above, the Department assumes that PSN will be the only automatic portability provider in the market. PSN is structured with seven ''owner members,'' who have board control. It allows for open recordkeeper membership without board control. In September of 2023, PSN stated that the owner members, which include Alight, Empower, Fidelity, Principal, RCH, TIAA, and Vanguard, were the only members at that time.[79] There is significant uncertainty regarding how many recordkeepers will join PSN. The Department believes that automatic portability transactions will be a desirable feature for plan sponsors and participants, which may drive growth in recordkeeper participation. Recordkeepers do not incur a direct cost to join PSN. The Department requests comment on how many recordkeepers would choose to join PSN.

While this analysis assumes that PSN will be the only automatic portability provider, the Department acknowledges that another automatic portability provider may enter the market. Entry of additional automatic portability providers may impact the number of affected recordkeepers and the manner in which those recordkeepers are affected by this proposed regulation.

According to the Department's analysis of 2021 Form 5500 data, there were 1,951 recordkeepers providing services to private sector DC retirement plans.[80] As described in more detail in subsection 3.1 above, the six recordkeepers that are founding owner members of PSN administer accounts for over 60 percent of account holders in large DC plans that file Form 5500. The Department estimates that by the end of the ten-year estimation period for this analysis, roughly 90 percent of the DC account holders in plans filing Form 5500 would be associated with participating recordkeepers. As an illustration, this level of recordkeeper participation could be achieved if the next 12 largest recordkeepers, in terms of account holders serviced, fully participated in the program. Because the market is currently dominated by large recordkeepers, the Department anticipates that additional entry into the market will be initially dominated by other large recordkeepers. However, because of the low cost to participate in the PSN, it is possible that most recordkeepers will eventually participate in it. The Department solicits comments on its assumptions and estimates regarding recordkeeper participation.

4.3. Plans, Plan Participants, and the Number of Automatic Portability Transactions

This section derives an estimate of the number of automatic portability transactions. It does so by (1) identifying plans, participants, and assets covered by PSN-participating recordkeepers, (2) estimating the number of accounts below the mandatory distribution threshold, and (3) estimating employment separations and post-separation behavior. It estimates these figures under the baseline scenario and under implementation of the statute and regulation.

4.3.1. Plans, Participants and Assets

The proposed regulation has the potential to affect participants with account balances in any employer-sponsored retirement plan that is: (1) a qualified trust; (2) an annuity plan described in Code section 403(a); (3) an eligible deferred compensation plan described in Code section 457(b) which is maintained by an eligible employer described in Code section 457(e)(1)(A); or (4) an annuity contract described in Code section 403(b).[81] Approximately 635,000 DC plans reported participants with account balances on their 2021 Form 5500. These plans cover 86.6 million participants with total account balances of $9.3 trillion.

To understand the number of plans, participants and assets that could be impacted one would need to know if the plan's recordkeeper is part of the PSN network and if their account balance is below the mandatory distribution threshold ($5,000 baseline or $7,000 post statute and regulation) when they separate from employment. To identify plans with PSN-participating recordkeepers the Department queried Form 5500 Schedule C data, which has information on a plan's service providers. The data has limitations. in particular, only large plans are required to submit the Schedule C, which means the majority of plans do not have to file the Schedule C. However, the group of retirement plans required to submit the Schedule C covers nearly 90 percent of participants with account balances and 90 percent of assets, which are the main variables of interest.

The query of Schedule C data showed that the six recordkeepers that are founding owner members of PSN provided services to over 34,600 large plans (40 percent of large plans) with 47 million account holders (61 percent of account holders in large plans). These plans held $5.5 trillion in assets (66 percent of large plan assets) in 2021.[82]

Some plans with participants that may be impacted by the proposed rule are not required to file the Form 5500, for example state and local governmental plans. Account holders who participate in state and local governmental plans that are not covered by ERISA may also be affected by the proposed rule if their plan sponsor contracts with an automatic portability provider to provide automatic portability services. According to BLS employment data, there are almost 20 million currently employed state and local government workers in the United States.[83] The March 2021 National Compensation Survey: Employee Benefits in the United States indicates that 18 percent of state and local

[79] Portability Services Network, *PSN Participating Owner Members and Members,* (2023), *https://psn1.com/auto-portability/regulatory-information/participating-recordkeepers.*

[80] The analysis only included plans with nonzero plan assets and nonzero participants. Calculations based on the 2021 Form 5500.

[81] While this rulemaking technically may apply to separated, vested DB participants as well, the Department believes that it is rare that they would be affected by the rule and therefore does not include them in its estimates. For further discussion, please see section 9. Uncertainty. The number of participants is left static throughout the ten-year time period of analysis. While this could impact the overall estimate of the benefits and costs, it does not impact the relative difference between benefits and costs.

[82] Tabulations presented are based on the 2021 EBSA Private Pension Plan Bulletin Research File.

[83] BLS Series Report(s) from the Current Employment Statistics program: CES9092000001 & CES9093000001, Dec 2022 data element, data accessed 10/2/2023 from: *https://data.bls.gov/cgi-bin/srgate.* 5,087,000 state employees and 14,370,000 local government employees.

government workers participate in a defined contribution plan.[84] Without more granular data, it is difficult for the Department to determine a reasonably specific proportion of these workers that could be affected by the proposed rule. However, the Department estimates that up to 3.5 million state and local government workers participate in a DC plan that may also incorporate a mandatory distribution provision for small account balances.[85]

4.3.2. Accounts With Balances Less Than the Mandatory Distribution Amount

The proposed regulation directly affects participants with account balances less than $7,000 in a plan at the time of separation from employment, previously only $5,000.[86] To estimate the number of affected participants, the Department considered the separation rate for participants within this group and the proportion of DC plan accounts with balances under $7,000.

While the Department lacks data specifically on DC accounts with less than $7,000, there are related data that are useful in the construction of an estimate. The Employee Benefit Research Institute (EBRI) reported that in 2020, 40 percent of 401(k) plan accounts with balances had less than $10,000 in their accounts and 28 percent had less than $5,000 in their account.[87] The Department used this data to estimate that approximately 33 percent of DC plan accounts will have balances below the new mandatory distribution threshold of $7,000. Additionally, the Department estimates that 28 percent of DC plan accounts would have balances below the current mandatory distribution threshold of $5,000 that represent the baseline. The Department requests comment on these assumptions and this estimate.

4.3.3. Affected Accounts

Table 1 shows the estimates of the number of accounts, how the affected accounts are identified, and how the affected accounts are impacted in the baseline scenario and post-rule scenario for the first year in the estimation period. This section explains the assumptions and calculations used to obtain the estimates in the table. A similar table could be constructed for each year, with the difference for each year being the percent of accounts covered by the automatic portability network. A key takeaway from the table is the increase in accounts in plans with the automatic portability feature from the baseline to the post-rule scenario. The increase in these accounts is the source of much of the benefits of the rule. Bolded numbers at the bottom of a table are numbers that flow into a subsequent table.

TABLE 1—AFFECTED ACCOUNTS

	Baseline	Post-rule
Defined Contribution Plan Account Holders	86,573,634	86,573,634
× *Job Separation Rate Associated with Modest Account Balances*	*20%*	*20%*
= Annual Account Churn	17,314,727	17,314,727
× *Proportion with Balance of $7,000 or less*	*33%*	*33%*
= Affected Accounts	5,713,860	5,713,860
× *Proportion of Separating Account Holders Subject to Mandatory Distribution*	*85%*	*100%*
= Accounts Subject to Mandatory Distribution [1]	4,848,124	5,713,860
Accounts Not Subject to Mandatory Distribution [1]	865,736	0

[1] These values flow into Table 3.

A 2023 report by Vanguard suggests that accounts with balances below $10,000, which is the most similar balance category that aligns with the mandatory distribution limit and therefore used as a proxy for this group, are primarily held by participants with household incomes of less than $50,000.[88] The Federal Reserve Economic Well-Being of U.S. Households Survey of Household Economics and Decisionmaking (SHED) survey provides data on voluntary and involuntary employment separations by income range. Based on SHED data from 2018–2022, the Department assumes a separation rate of 20 percent for workers with annual household incomes of less than $50,000.[89] The Department uses this factor as the separation rate for small balance plans in its estimations.

The Department is interested in the post-separation behavior of both the employer/plan sponsor and account owner. A survey conducted by the Callan Institute in 2022 found that 65 percent of DC plan sponsors sought to retain assets of both retirees and terminated participants, with 85 percent seeking to retain assets of retirees and 65 percent seeking to retain assets of other terminated participants.[90] This study also suggests that plan sponsors seek to retain separating employees' plan assets due to cost efficiencies, although half of the responding plan sponsors did not have a strategy in place for asset retention. The Department seeks comment from entities such as plan sponsors and recordkeepers with information on plan policies and

[84] BLS, ''National Compensation Survey: Employee Benefits in the United States'', (September 2021), Employee Benefits in the United States, March 2021 (*bls.gov*).

[85] Calculated as: 18% × (5,087,000 state employees + 14,370,000 local government employees) = 3,502,260.

[86] There are some accounts that could have balances above the $7,000 threshold that are still subject to a mandatory distribution. *See* Code section 411(a)(11)(D) for circumstances where the amount of a distribution may be greater than $5,000 if a participant made a previous roll-in to a plan from an individual retirement plan. In such circumstances, the roll-in funds are not considered in determining the $5,000 vested accrued balance, so a larger amount of assets could be subject to a mandatory distribution under the terms of the plan.

[87] Sarah Holden, Steven Bass, and Craig Copeland. ''401(k) Plan Asset Allocation, Account Balances and Loan Activity in 2020,'' EBRI Issue Brief #576. November 29, 2022. Retirement Clearinghouse, LLC, Employee Benefit Research Institute, and contributor Boston Research Technologies. ''Auto Portability Research & Simulation: Automating Plan-to-Plan Transfers for Small Accounts.'' Consolidated Testimony in front of the ERISA Advisory Council, June 8, 2016.

[88] Vanguard. ''How America Saves.'' 2023.

[89] Federal Reserve. ''Economic Well-Being of U.S. Households in 2022.'' (2023). *https://www.federalreserve.gov/publications/files/2022-report-economic-well-being-us-households-202305.pdf.*

[90] Callan Institute. ''2023 Defined Contribution Trends.'' *https://www.callan.com/research/2023-defined-contribution-trends-survey/.*

participant behavior after job separation related to small balance accounts.

Two recordkeepers servicing 8 million accounts, Alight and Vanguard, published separate experience studies regarding post-separation actions in 2023.[91] These reports have informed the Department's understanding of the disposition of small balance accounts. As presented in table 2, the two studies report similar rates of cashouts. However, the proportion of accounts rolling over and remaining with the prior employer's plan varied significantly. These differences may be attributable to differing economic conditions, differing levels of financial literacy, or by plan design elements unique to the recordkeeper.

TABLE 2—POST-SEPARATION BEHAVIOR FOR SMALL BALANCE ACCOUNTS

[$1,000–$4,999]

Year published	Recordkeeper	Accounts	Cashout (%)	Remain in plan (%)	Rollover (%)
2023	Vanguard	5,000,000	34	51	15
2023	Alight	3,000,000	39	28	33
Behavior Assumptions without Automatic Portability Feature*			36	42	22
Behavior Assumptions with Automatic Portability Feature (Based on RCH Pilot)			27	42	31

*Weighted average of values from Vanguard and Alight reports. Automatic portability is estimated to decrease cashouts by 25% across eligible accounts, which increases rollovers by approximately 40%.

The Department developed its estimates related to post-separation actions using both studies to create weighted averages based on the number of accounts in each study. Therefore, the Department estimates that 36 percent of separations will result in a cashout in the absence of the enhanced automatic portability plan feature provided in this proposal and statutory exemption. The Department acknowledges that the experience of these two service providers may not be representative of the experience for all plan recordkeepers and requests comments or additional data concerning this assumption.

This proposal would affect plan participants differently depending on the size of their account balance. As discussed above, under current law, a separating employee with a DC plan account balance of $7,000 or less can be ''cashed out'' of the plan by their employer without their consent. A separating employee with DC plan savings between $1,001 and $7,000 can only be ''forced out'' of their plan into a Default IRA through an automatic rollover if they do not provide directions to the employer after receiving a notice from the plan's administrator.[92]

Alternatively, this proposal would allow for ''automatic portability transactions.'' These are transactions in which assets held in a Default IRA established on behalf of an individual from a mandatory distribution from an employer-sponsored retirement savings plan are subsequently transferred to an eligible employer-sponsored plan in which such individual is an active participant, after such individual has been given advance notice of the transfer and has not affirmatively opted out of such transfer. As shown above in table 2, the Department estimates that the statutory exemption would reduce the propensity to cash out for separating participants with small accounts by 25 percent. The basis for this estimate is a pilot study of automatic portability conducted by RCH which reduced cashout rates for small balance account holders by approximately 50 percent.[93] The specific way the pilot study was implemented, however, suggests that this finding is larger than we would observe under the statutory exemption. The pilot study had a selected sample of participants who had been matched to a current, active account. Participants received a letter encouraging them to call and speak with someone who would provide advice or guidance about their options and offer to help them implement a rollover.

Table 3 shows how the affected accounts are sorted in the Department's estimation process for year one. For both the baseline and the post-rule scenario, the first step is to group the accounts based on whether or not the account belongs to a plan with the automatic portability feature and accounts subject to a mandatory distribution requirement. There are 865,736 accounts that are not subject to mandatory distribution in the baseline because their balances are between $5,001 and $7,000. These accounts are subject to mandatory distribution in the post-rule scenario. The assumptions from table 2 are then applied to these groups to estimate the share of small accounts post-separation being cashed out, remaining in the plan, and those rolled over.[94]

[91] Vanguard. ''How America Saves.'' 2023; Alight. ''Universe Benchmarks Report.'' 2023.

[92] *See* Code section 401(a)(31)(B) as amended by the SECURE 2.0 Act. Previously, this ''force out'' applied to a separating employee with DC plan savings between $1,001 and $5,000.

[93] Boston Research Technologies. ''Eliminating Friction and Leaks in America's Defined Contribution System.'' 2013.

[94] These estimates are calculated as follows: 36% baseline cashout rate × 25% decline from automatic portability = 9 percentage points. The estimated post-rule cashout rate is the baseline cashout rate, 36%, minus 9%, which equals 22%. The estimated post-rule rollover rate is the baseline rollover rate of 22%, plus the 9% increase from automatic portability, which equals 31%.

TABLE 3—YEAR ONE DISPOSITION OF ACCOUNTS

Disposition of accounts	Baseline [1]			Post-rule	
	Accounts subject to mandatory distribution	Accounts not subject to mandatory distribution [1]	Total	Accounts subject to mandatory distribution	Total
Accounts with Balances Below $7,000 ..	4,848,124	865,736	5,713,860	5,713,860	5,713,860
Cashout:					
Number of Accounts	1,461,709	311,665	1,773,374	1,722,728	1,722,728
Remain in Plan:					
Number of Accounts	2,036,212	363,609	2,399,821	2,399,821	2,399,821
Rollover:					
Number of Accounts	1,350,202	190,462	1,540,664	1,591,310	1,591,310
× *Estimated Percent of Rollovers Going into Default IRAs*	*60%*	*0%*	.....	*60%*	*60%*
Total Default IRAs	810,122	0	810,122	954,786	954,786
× *Year One Account Coverage by AP Network* [2]	*65%*	*65%*	*65%*	*65%*	*65%*
Automatic Portability Feature	526,579	0	526,579	620,611	620,611
No Automatic Portability Feature [3]	283,543	0	283,543	334,175	334,175

[1] In the baseline, accounts with assets between $5,001 and $7,000 are not subject to mandatory distribution. In the post-rule scenario, all accounts with assets below $7,000 are subject to mandatory distribution.

[2] Coverage by the AP network is expected to expand in the post rule scenario while the baseline is assumed to remain constant. The post rule scenario is modeled using the following coverage assumptions: A_i = {65%, 72%, 78%, 82%, 84%, 86%, 88%, 89%, 90%, 90%}; where element *i* = years 1 through 10.

[3] 35 percent of accounts are not assumed to be covered by the AP network in year one. The percent of accounts not covered by the AP network in subsequent years may be calculated as $1 - A_i$.

Finally, the Department estimates the number of default IRA accounts expected to be generated from the roll over activity in year one. Research finds that approximately 60 percent of all small account balance IRA rollovers (default IRAs) are the result of automatic rollovers of mandatory distributions.[95] The estimates of accounts rolling over for the first year described in table 3 are applied to the 60 percent factor to generate the estimated number of affected accounts expected to roll over into a default IRA. This is the group where the automatic portability transactions will occur. These calculations continue into table 4, where the number of Default IRAs is shown over each of the first ten years, followed by the number of Default IRAs with automatic portability features, as well as the number that ultimately result in an automatic portability transaction each year.

[95] Approximately 60% is an estimate of the share of IRAs below the current mandatory distribution threshold of $5,000, established from a rollover, that remain fully invested in money market funds after one year of opening. *See* Figure 6.8. Investment Company Institute. ''The IRA Investor Profile: Traditional IRA Investors' Activity, 2007–2016.'' (2018). Goodman, Mukherjee, and Ramnath, ''Set It and Forget It,'' 2023.

TABLE 4—TEN YEAR COUNTS OF DEFAULT IRA AND AUTOMATIC PORTABILITY (AP) TRANSACTIONS

Estimation period	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
Baseline (RCH/PSN Operates, $5,000 Distribution Limit)											
Coverage/Match Factor	65%	65%	65%	65%	65%	65%	65%	65%	65%	65%	
Default IRAs	810,122	810,122	810,122	810,122	810,122	810,122	810,122	810,122	810,122	810,122	8,101,220
Accounts with AP	526,579	526,579	526,579	526,579	526,579	526,579	526,579	526,579	526,579	526,579	5,265,790
AP Transfers	337,484	337,484	337,484	337,484	337,484	337,484	337,484	337,484	337,484	337,484	3,374,840
Post-Rule (RCH/PSN Grows, $7,000 Distribution Limit)											
Coverage/Match Factor	65%	72%	78%	82%	84%	86%	88%	89%	90%	90%	
Default IRAs	954,786	976,384	994,897	1,007,239	1,013,410	1,019,581	1,025,752	1,028,837	1,031,923	1,031,923	10,084,732
Accounts with AP	620,611	702,996	776,020	825,936	851,264	876,840	902,662	915,665	928,731	928,731	8,329,456
AP Transfers	397,749	519,606	630,585	699,159	724,418	766,494	809,360	817,864	839,779	824,156	7,029,170
Differences between the Baseline and Post-Rule:											
Default IRAs	144,664	166,262	184,775	197,117	203,288	209,459	215,630	218,715	221,801	221,801	1,983,512
Accounts with AP	94,032	176,417	249,441	299,357	324,685	350,261	376,083	389,086	402,152	402,152	3,063,666
AP Transfers	60,265	182,122	293,101	361,675	386,934	429,010	471,876	480,380	502,295	486,672	3,654,330

*The Department estimates that approximately 1.4% of all accounts that are matched for an automatic portability transaction will not be transferred due to account holder opt-out. The coverage/match rates can not be applied directly to the estimates in the table to obtain other estimates in the table. The drop in Automatic Portability transfers from year 9 to year 10 is a function of the coverage/match rates being the same in both years in the estimation model.

5. Benefits

This section describes the benefits of the proposed regulation in comparison to the baseline before the statutory exemption for automatic portability transactions was enacted by SECURE 2.0 Act. As previously stated, RCH/PSN already relies on relief the Department provided in PTE 2019–02, an administrative individual exemption, to provide automatic portability provider services. In general, the benefits of the proposed regulation are derived from the removal of the uncertainty associated with the need to rely on an individual exemption. Moreover, RCH/PSN will benefit from this proposed regulation because they would not have to request additional relief from the Department when the five-year term of PTE 2019–02 expires.

The establishment of a statutory exemption encourages the growth of the market for automatic portability providers. As previously stated, the Department assumes that RCH currently represents roughly 65 percent of the accounts in the system and that they have a success rate of 65 percent in matching accounts in that system. This results in roughly 337,000 automatic portability transfers estimated to occur each year in the baseline. This is compared to the expansion that results from the rule where the Department estimates the number of automatic portability transfers to grow to approximately 825,000 at the end of the estimation window. This estimate represents automatic portability coverage for approximately 90 percent of the accounts in the DC system. This is anticipated to result in $2.8 billion of undiscounted benefits arising through:

- An increase in potentially affected accounts due to the increase in the mandatory distribution threshold from $5,000 to $7,000;
- Projected account balance appreciation and higher returns;
- Reduction of duplicative fees; and
- Consolidation of abandoned accounts.

Retaining assets in retirement accounts and avoiding cashouts is an objective of the statute and proposed rules. Table 5a shows the value of assets retained in the retirement accounts through a reduction of the amount of assets cashed out. The impact of the rule is the difference in the value of accounts that cashout post-rule relative to the baseline. This amount is not classified as a benefit. Table 5b shows each component of the quantified benefit stream measured as improvements between the baseline scenario and the post proposed rule scenario. The increase overtime in affected accounts is incorporated into the values displayed.

TABLE 5A—VALUE OF AFFECTED ACCOUNTS

[$ in millions]

Year	1	2	3	4	5	6	7	8	9	10	Total
Retirement Assets Retained via Cashout Avoidance:											
Rule	$5,334	$5,202	$5,086	$5,007	$4,967	$4,926	$4,886	$4,865	$4,844	$4,844	$49,962
−Baseline	5,461	5,461	5,461	5,461	5,461	5,461	5,461	5,461	5,461	5,461	54,609
= Assets Retained	127	259	375	454	494	534	575	596	617	617	4,647
Present Value of Assets Retained by Discount Rate:											
3 Percent	123	244	343	403	426	448	468	470	473	459	3,856
7 Percent	118	226	306	346	352	356	358	347	335	313	3,059

TABLE 5B—VALUE OF AFFECTED ACCOUNTS

[$ in millions]

Year	1	2	3	4	5	6	7	8	9	10	Total
Value of Reallocation of Assets:											
Rule	$29,218	$27,792	$26,380	$24,954	$23,554	$22,267	$21,058	$19,905	$18,839	$17,842	$231,808
−Baseline	29,249	27,570	26,013	24,569	23,229	21,987	20,835	19,767	18,776	17,857	229,851
= Benefits	−31	222	367	385	325	280	223	139	63	−15	1,957
Value of Duplicated Account Fees:											
Rule	17	39	65	94	125	157	191	225	261	295	1,469
−Baseline	14	28	43	57	71	85	99	113	128	142	780
= Benefits	3	10	22	38	54	72	92	112	133	153	689
Value of Abandoned Accounts Consolidated:											
Rule	12	16	19	21	22	23	24	25	25	25	211
−Baseline	10	10	10	10	10	10	10	10	10	10	101
= Benefits	2	5	9	11	12	13	14	14	15	15	110
Annual Total:											
Rule	29,247	27,846	26,464	25,069	23,701	22,447	21,273	20,155	19,125	18,162	233,488
−Baseline	29,273	27,609	26,066	24,636	23,310	22,082	20,944	19,890	18,913	18,009	230,732
= Benefits	−26	237	398	433	390	365	329	265	211	153	2,756
Present Value of Benefits by Discount Rate:											
3 Percent	−26	224	364	385	337	306	267	209	162	114	2,342
7 Percent	−25	207	325	331	278	243	205	154	115	78	1,911

Lastly, it should enhance the ability of American workers to achieve their retirement savings goals by consolidating retirement funds into fewer accounts and investing assets consistent with their retirement needs. These benefits are described in more detail in the following subsections.

5.1. Benefits for Plan Participants

The Department expects that DC plan participants with small account balances that are subject to the Code's mandatory distribution rules would benefit from increased access to automatic portability transactions in several ways. First, their retirement account balances would be consolidated in their new employer's plan, which would reduce participants' exposure to duplicative fees. Second, the incidence of missing participants and abandoned accounts would decrease as a result of the automatic portability providers matching a Default IRA with an individual's account in their new employer's plan. Third, moving assets from a Default IRA to a DC plan would likely provide greater investment returns, on average, as the assets are reallocated from being invested in money market funds to target date funds and other, more diversified investments.

5.1.1. Account Consolidation

One potential outcome of a highly mobile labor force (one in which employees change jobs frequently) is the proliferation of retirement accounts. Data from the Federal Reserve indicates that approximately 20 percent of employees with a DC plan account and household incomes below $50,000 changed jobs in the past year.[96] As participants change jobs, mandatory distributions into a Default IRAs can result in individuals owning several retirement accounts.[97] Once potential outcome of multiple accounts is individuals paying management or recordkeeping fees for several accounts. GAO reported a median annual record-keeping flat fee of $42 per account. Although modest, this fee can contribute to an erosion of accumulated retirement assets, especially if applied to multiple, small-balance accounts.[98] Thus, each account consolidation provides a benefit to participants equal to the value of any associated fees or expenses arising from maintaining an additional retirement account that would be eliminated through consolidation net of the transfer fee discussed in section 6.4 of the Costs section below. Accordingly, the Department estimates that over the 10-year estimation window, account consolidations will total approximately 3.7 million additional accounts when compared to the baseline, yielding approximately $689 million in undiscounted benefits for participants accruing from the reduction of duplicative fees for multiple accounts over the 10-year estimation period.[99]

5.1.2. Missing Participants and Abandoned Accounts

Another consequence of the proliferation of small-balance accounts is the potential for a high volume of retirement assets that are ''abandoned'' by participants. Over time, DC plan account holders that have separated from their employers may become disconnected from their retirement assets as a result of mandatory distributions into Default IRAs. Abandonment of these accounts may be attributable to any number of reasons but are often the result of participants that are missing (cannot be found by the plan provider), unresponsive (failing to respond to communications from the plan provider), or unaware that an account has been established on their behalf. Goodman, Mukherjee, and Ramnath (2023) found that 0.4 percent of retirement-aged IRA owners abandoned their IRAs, amounting to $66 million (in 2016 dollars).[100] Because this figure only relates to retirees, it represents only a fraction of the assets that exist in abandoned IRAs for the larger pool of IRA owners of all ages; a portion of these IRA owners would have been impacted by mandatory distributions. The Department estimates that 1.0 percent of Default IRA owners will abandon their IRAs, which is consistent with Goodman, Mukherjee, and Ramnath (2023).[101] It seems likely that IRA owners who experienced force-outs may have higher abandonment rates than other IRA owners. Owners who experienced force-outs allowed themselves to be defaulted into an IRA instead of taking action to perform a rollover or obtain a cashout, indicating they may have a tendency to be unaware or passive, characteristics that may increase the likelihood of abandonment. From FY 2017 through FY 2023, EBSA benefit advisors have located 4,732 participants through a joint initiative with the Pension Benefit Guaranty Corporation (PBGC) to connect individuals with retirement benefits valued at $227.6 million.

Given the threshold for mandatory distributions increases to $7,000 in 2024 while the adoption of auto-enrollment policies by plan sponsors continues to expand, there will be an increased number of potential Default IRAs, and, as a result, the number of accounts that might be abandoned or have missing participants will also increase.[102] However, over time the Department estimates a minimum of approximately 37,000 accounts will be saved from abandonment with the statutory exemption over the 10-year estimation period (1.0 percent of the approximately 3.6 million accounts that will be consolidated through automatic portability transactions when compared to the baseline). The Department further estimates the consolidation of abandoned accounts would provide approximately $109.6 million in undiscounted benefits for participants over the 10-year estimation window when compared to the baseline.[103] The Department requests comment on these estimates.

5.1.3. Improve Asset Allocation

Upon job separation, some employees with small-balance accounts between $1,001 and $7,000 (in 2024) [104] can be forced out of their previous employer's plan by a mandatory distribution of

[96] Federal Reserve. ''Economic Well-Being of U.S. Households in 2022.'' (2023). *https://www.federalreserve.gov/publications/files/2022-report-economic-well-being-us-households-202305.pdf*.

[97] Employee Benefit Research Institute. ''EBRI IRA Database: IRA Balances, Contributions, Rollovers, Withdrawals, and Asset Allocation, 2017 Update.'' (2020).

[98] Government Accountability Office. ''401(k) Plans: Greater Protections Needed for Forced Transfers and Inactive Accounts.'' (2014).

[99] The estimate is calculated as follows: 3,654,330 account consolidations × $42 = $153,481,860 in benefits. $153,481,860 × average of 4.5 years receiving benefit per account = $689,003,322 in total benefits. At a discount rate of 3 percent, this results in $552,051,586 in total benefits. At a discount rate of 7 percent, this results in $417,450,008 in total benefits.

[100] In this study, account abandonment is proxied by a failure to claim the account over ten years after a legal requirement to do so; specifically, the required minimum distribution requirement. Goodman, Mukherjee, and Ramnath, ''Set It and Forget It,'' 2023.

[101] *Id.*

[102] *Id.*

[103] The estimate is calculated as follows: 3,654,330 account consolidations from automatic portability transactions × 1% of retirement accounts that are abandoned = 36,544 abandoned accounts consolidated. 36,544 accounts × $3,000 average account balance for Default IRAs = $109,632,000. At a discount rate of 3 percent, this results in $90,685,800 in total benefits. At a discount rate of 7 percent, this results in $71,592,717 in total benefits.

[104] *See* Code section 411(a)(11)(D) for circumstances where the amount of a distribution may be greater than $5,000 ($7,000 beginning in 2024) if a participant made a previous roll-in to a plan from an individual retirement plan. In such circumstances, the roll-in funds are not considered in determining the $5,000 vested accrued balance, so a larger amount of assets could be subject to a mandatory distribution under the terms of the plan.''

their accumulated retirement assets that is automatically rolled over to a Default IRA.[105] The Department has issued regulations providing a safe harbor that requires the employee's former employer to invest amounts held in a Default IRA in an investment product that preserves principal and provides a reasonable rate of return.[106] In practice, many plans seek to implement the safe harbor by investing in money markets funds; however, the tradeoff for relative safety is potential returns. A 2014 GAO study reported that the average return for money market funds in the preceding 10 years was 1.5 percent, considerably lower than the average 6.3 percent return for target date funds common among 401(k) plans.[107] Moreover, few participants take action to reallocate these default investments away from money market funds.[108]

The difference in the average rate of return between these two typical investment strategies could have a substantial impact on the value of retirement assets for investors with small-balance accounts, which are susceptible to capital erosion from fees and inflation. GAO projected investment outcomes over 30 years and found that an initial balance of $1,000 was estimated to be valued at over $2,700 under the average returns for target-date funds (6.3 percent) but $0 under the average returns for money market funds (1.5 percent), largely as a result of account fees outweighing minimal returns.[109] This suggests that assets transferred into Default IRA accounts, which are typically invested in low-risk money market funds, could be better preserved and invested elsewhere.[110] Consolidating these assets in a DC plan could improve the asset allocation of, and potentially better preserve, retirement assets for many retirement investors.

As presented in table 4 of the Affected Entities section, the Department estimates that just over 10 million Default IRAs will be created in the ten-year estimation period, compared to 8.1 million in the baseline, a change of approximately 2.0 million accounts. Of these 10 million Default IRAs, 8.3 million are assumed to be in the automatic portability network under the rule (compared with 5.3 million at the baseline). The results are that 7.1 million accounts will be moved into a new employer's DC plan via automatic portability, compared with 3.4 million in the baseline, an improvement of 3.7 million between the two scenarios. This results in an asset allocation with a more favorable return for account owners.

Similar to the GAO analysis, the Department utilized updated data covering the 15 most recent years to estimate the returns to money market funds characteristic of Default IRAs and for target-date funds (TDFs) typical of DC plans, further supporting an analysis of how the change in asset allocation might potentially alter investment outcomes as a result of automatic portability transactions. Returns to money market funds from 2008 to 2022 averaged 0.7 percent, while returns to TDFs averaged 8.1 percent over the same period.

The Department estimates that this reallocation of assets from Default IRAs to DC plans would result in approximately $2.0 billion in additional benefits when compared to the baseline value.[111]

5.1.4. Reduced Participant Benefits Because More Participants Are Subject to Mandatory Distributions

The increase in the mandatory distribution threshold from $5,000 to $7,000 means that some separating participants will have fewer choices about how to deal with their account. This reduces the net benefits for those plan participants. Prior to the passage of the SECURE 2.0 Act, many separating participants in this account balance range would have left their account in their former employer's plan, but some of those participants would now be subject to a mandatory distribution into a Default IRA. If the account assets end up in a Default IRA, the Department expects that the participant would generally be worse off than in their former employer's plan because the assets would be subject to little or no growth given that they typically would be invested in money market funds and subject to relatively high fees. Other separating participants in the $5,000 to $7,000 range may end up being rolled into a new employer's plan; they would be better or worse off depending on how the services, products, and fees in the new employer's plan compared to the former employer's plan and depending on how long the assets lingered in the Default IRA before being rolled over into the new employer's plan. Overall, the affected participants would be worse off on average.

5.2. Benefits for Plans, Automatic Portability Providers, and Other Service Providers

The estimated benefits for participants that are described in the preceding subsection result from the predictability the proposed rule provides to the marketplace. This predictability is intended to encourage the growth and efficiency of the automatic portability market. RCH/PSN will no longer need an administrative individual exemption or to apply to the Department for additional relief when the term PTE 2019–02 expires in 2024. For the same reason, the proposed rule removes barriers to entry for potential future automatic portability providers. The proposed rule will bring increased certainty to the robust network of entities involved in automatic portability arrangements, consisting of the automatic portability provider(s), recordkeepers, plans and plan sponsors, and plan participants and Default IRA owners, which will increase the reach, efficiency, and long-term viability of automatic portability transactions.

5.3. Benefits for Financial Institutions

Financial institutions would benefit from more assets being kept in consolidated, retirement savings accounts and being invested rather than being cashed out because the financial institutions would earn more fees. Cashouts from small balance accounts are typically taken as cash and spent. The loss of retirement assets associated with cashing out small balance accounts and Default IRAs will be considerably curtailed with the adoption of automatic portability programs by plans sponsors and recordkeepers. At job separation, a small balance account holder (who has an account with $5,000 or less, or beginning in 2024, an account with $7,000 or less) can be forced out of their former employer's retirement plan.

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[105] Code section 401(a)(31)(B); *see* SECURE 2.0 Act, Sec. 304, Updating Dollar Limit for Mandatory Distributions.

[106] 29 CFR 2550.404a–2(c)(3)(i).

[107] Government Accountability Office (GAO). ''401(k) Plans: Greater Protections Needed for Forced Transfers and Inactive Accounts.'' (2014).

[108] Goodman, Mukherjee, and Ramnath, ''Set It and Forget It,'' 2023. Investment Company Institute. ''The IRA Investor Profile.'' 2018. 80% is an estimate of the share of IRAs below the current mandatory distribution threshold of $5,000, established from a rollover, that remain fully invested in money market funds after one year of opening. *See* Figure A.2 in the Appendix.

[109] Government Accountability Office (GAO). ''401(k) Plans: Greater Protections Needed for Forced Transfers and Inactive Accounts.'' (2014).

[110] *Id.*

[111] Returns from DC plans are estimated using an asset distribution characteristic of typical default investments for TDFs, 80% stocks (S&P 500 annual returns) and 20% bonds (Baa Corporate returns). Returns for Default IRAs are estimated using an asset distribution characteristic of typical default investments for Default IRAs, 98% Treasury Bills and 2% Treasury Bonds. NYU Stern School of Business. *Historical Returns on Stock, Bonds, and T-Bills: 1928–2022.* Accessed: *https://pages.stern.nyu.edu/~adamodar/New_Home_Page/data.html.* At a discount rate of 3 percent, this results in $1,699,169,773 in benefits. At a discount rate of 7 percent, this results in $1,422,157,975 in benefits.

While a rollover may result in procedural or paperwork burdens for the participant, a cashout is often the most straightforward option. Automatic portability programs, however, have the potential to reduce such burdens for participants, resulting in a higher volume of rollovers and fewer cashouts. Because cashouts are negatively correlated with the size of account balances (*i.e.,* small account balances are more likely to be cashed out), the likelihood of cashouts at future job separations is expected to decrease as more assets remain in an individual's DC plan account, compounding the benefits of automatic portability transactions over time.

TABLE 6—ACCOUNTING STATEMENT

Benefits:

Non-Quantified:

- Increased mandatory distribution threshold leads to cost savings for plans but reduced benefits for separating participants.
- Increased ease of retirement planning due to account consolidation.

	Estimate (primary)	Year dollar	Discount rate (%)	Period covered
Annualized Monetized ($ Millions/Year)	$191.12	2023	7	2024–2033
	234.19	2023	3	2024–2033
Costs:				
Annualized Monetized ($ Millions/Year)	$1.21	2023	7	2024–2033
	1.42	2023	3	2024–2033

Transfers:

Non-Quantified:

- Requiring automatic portability providers to offer the same terms to any plan will ensure sponsors not be restricted from engaging with more than one provider. This reduces barriers to entry, which is a transfer to providers entering the market, and encourages lower fees, which is a transfer to participants.
- Increasing the mandatory distribution threshold will reduce participant choice in how they handle their accounts. Conversely, this will give sponsors increased latitude in how they handle accounts. No longer having to administer small accounts is a transfer from participants to sponsors.
- Decreasing the number of Default IRA accounts will affect financial institutions that service these accounts. This will represent a transfer to institutions that service employer plans.

Annualized Monetized ($ Millions/Year)	52.00	2023	7	2024–2033
	65.55	2023	3	2024–2033

6. Costs

This analysis estimates the changes to cost burdens associated with the provision of automatic portability services under the proposed rule when compared to a baseline where the automatic portability provider operates under PTE 2019–02. The costs presented can be generally grouped into two categories: start-up and ongoing. The start-up costs are associated with updating processes or documents to bring existing practices into compliance with the proposed rule where there is a difference between operations under the PTE when compared to the proposed rule. The ongoing costs generally represent costs incurred due to both the increase in the threshold from $5,000 to $7,000 which is expected to create more default IRA accounts which is the group that automatic portability transactions occur within, and the growth of the automatic portability system which is assumed to result from the proposed rule. Over the first 10 years, the Department estimates an undiscounted cost of approximately $16,206,196, annualized to $1,620,620.[112] The undiscounted stream of estimated costs is presented in table 7 below.

TABLE 7—ESTIMATED COSTS ASSOCIATED WITH RULE

[$ in thousands]

Year	1	2	3	4	5	6	7	8	9	10	Total
Materials and Postage	$2	$3	$9	$14	$16	$19	$21	$22	$24	$23	$154
Labor Costs	6,206	88	572	895	1,041	1,226	1,415	1,483	1,580	1,547	16,052
Total All Cost	6,208	90	581	909	1,057	1,245	1,436	1,505	1,604	1,570	16,206
Present Value of Total Cost:											
3 Percent	6,027	85	532	808	912	1,042	1,168	1,188	1,229	1,168	14,160
7 Percent	5,802	79	474	693	754	829	894	876	872	798	12,073

6.1. Preliminary Assumptions and Cost Estimate Inputs

For purposes of this analysis, the Department assumes that the percent of retirement investors receiving electronic disclosures would be similar to the percent of plan participants receiving electronic disclosures under the Department's 2002 and 2020 electronic disclosure safe harbors.[113] Accordingly, the Department estimates that 96.1 percent of the disclosures sent to plan participants would be sent electronically, and the remaining 3.9 percent would be sent by mail.[114] For disclosures sent by mail, the Department estimates that entities will

[112] Using a 3 percent discount rate results in a cost savings of approximately $14,160,023, annualized to $1,416,002. Using a 7 percent discount rate results in a cost savings of approximately $12,073,029, annualized to $1,207,303.

[113] 67 FR 17264, 85 FR 31884.

[114] The Department estimates 96.1 percent of retirement investors receive disclosures electronically. This is the sum of the estimated share of retirement investors receiving electronic disclosures under the 2002 electronic disclosure safe harbor (58.3 percent) and the estimated share of retirement investors receiving electronic disclosures under the 2020 electronic disclosure safe harbor (37.8 percent).

incur a cost of $0.66 [115] for postage and $0.05 per page for material and printing costs.

Additionally, the Department assumes that several types of personnel would perform the tasks associated with information collection requests at an hourly wage rate of $63.45 for clerical personnel, $128.11 for a top executive, $116.86 for an auditor, $132.93 for a plan fiduciary, $155.61 for a web designer, $159.34 for a legal professional, and $190.63 for a financial manager.[116]

6.2. Acknowledgement of Fiduciary Status

Pursuant to the statutory text authorizing the Secretary to specify the time and format of such an acknowledgment, § 2550.4975f–12(b)(1) of this proposed regulation requires the automatic portability provider to acknowledge in writing that it is a fiduciary as defined in Code section 4975(e)(3) upon being engaged by a plan fiduciary, as well as in the required notices and disclosures to plan participants and IRA owners that are described below.

The automatic portability provider's acknowledgment of its fiduciary status may include a description of the scope of the fiduciary status of the automatic portability provider and may explain that the automatic portability provider is not a fiduciary, consistent with Code section 4975(e)(3), with respect to any assets or administration of the plan or IRA with respect to which the automatic portability provider does not (1) have any discretionary authority, discretionary control or discretionary responsibility, (2) exercise any authority or control, and (3) render investment advice for a fee or other compensation, nor have any authority or responsibility to render such investment advice.

Although PTE 2019–02 discussed RCH's fiduciary status, it did not explicitly require a fiduciary acknowledgement as a condition of the exemption. Therefore, the proposed regulation has the potential to incrementally increase the costs to RCH/PSN. The Department assumes the time it would take to draft the fiduciary acknowledgment would be minimal and anticipates that a single standard acknowledgement would be included in contracts with plan sponsors. If language is not already included in contracts, the Department estimates that RCH/PSN would send a one-page supplemental acknowledgement to each plan sponsor with an estimated cost of $159 in legal costs to develop the supplemental acknowledgement and $391,275 in clerical costs [117] to provide the notices to the estimated 185,000 plans RCH/PSN currently services at an incremental cost of $2.12 per plan. Contracts executed after the date of a final rule would likely incorporate the acknowledgement for a de minimis additional cost.

The Department also anticipates the acknowledgement in each of the three notices to plans participants/IRA owners (initial enrollment, pre-transaction, and post-transaction notices) would use a standardized and identical acknowledgment. The Department requests information about other costs associated with the requirement to disclose fiduciary status.

6.3. Data Usage and Protection

The statutory exemption specifically prohibits the automatic portability provider from marketing or selling data relating to the IRA or to the plan participants. Section 2550.4975f–12(b)(3) of the proposed regulation parallels the statutory language by not permitting the use of data for any purpose other than the execution of automatic portability transactions or locating missing participants. The Department is not proposing any exceptions to this restriction. A similar restriction was placed on RCH in PTE 2019–02, so the Department does not expect an additional cost to RCH/PSN due to the proposal.

The Department, however, did not include an express data protection condition in PTE 2019–02 similar to that included in the proposed regulation. Therefore, compared to existing requirements on RCH/PSN, the Department expects that the proposed regulation could add costs. However, the Department also expects that these costs would fall under normal operating expenses borne by businesses when dealing with the types of sensitive data necessarily required to execute automatic portability transactions. The Department requests comment on this assumption.

6.4. Cost of Transactions Fees

As previously discussed, there is a transaction fee stated to be roughly between $15 and $30 per transferred account, depending on the account balance. This fee is applied only when a transfer occurs and is deducted from the funds in the account being transferred. The Department estimates there to be an additional 60,265 transactions in year one, and an average of 399,341 transactions annually in years two through ten. The Department uses the mid-point of the fee range stated, $22.50, as the expected average fee. Therefore, the Department estimates the aggregate transaction fees to be approximately $1.4 million in year one, and period two through ten to have aggregate fees on average of nearly $9 million per year.[118]

6.5. Notices and Disclosures

6.5.1. Notice to the Secretary of Labor

Under the proposed regulation, within 90 calendar days of the date that the automatic portability provider begins operating an automatic portability transaction program that is intended to rely on prohibited transaction relief provided by Code section 4975(d)(25), the automatic portability provider must notify the Secretary at *auto-portability@dol.gov* that it is operating as an automatic portability provider in accordance with Code section 4975(d)(25). The automatic portability provider must report the legal name of each business entity relying upon the exemption and any name (*e.g.,* trade or DBA name) the business entity may be operating under. This notification needs to be updated to report a change to the legal or operating name(s) of the automatic portability provider that is relying upon the exemption.

Because PTE 2019–02 was issued to a single entity, there was no such requirement in the exemption. However, the Department believes based on the small number of expected automatic portability providers entering the market, that the possible cost burden associated with submitting the simple notice via email to the Department to be roughly $16, which is estimated as 15 minutes of a clerical worker's time with an hourly wage rate of $63.45. While this notification would need to be updated to report a change to the legal or operating name(s) of the automatic portability provider that is relying upon the exemption, the Department expects that such a change would be rare and thus does not estimate an associated cost.

[115] United States Postal Service. ''First-Class Mail.'' (2023). *https://www.usps.com/ship/first-class-mail.htm.*

[116] Internal DOL calculation based on 2023 labor cost data. For a description of the Department's methodology for calculating wage rates, see *https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost-inputs-used-in-ebsa-opr-ria-and-pra-burden-calculations-june-2019.pdf.*

[117] The hour burden is estimated as: 185,000 plan fiduciaries × 2/60 hours = 6,167 hours. The equivalent cost is estimated as: 185,000 plan fiduciaries × 2/60 hours × $63.45 = 391,275.

[118] 60,265 additional transactions × $22.50 transaction fee = $1,355,963 in year 1. In years 2–10, an average of 399,341 additional transactions × $22.50 per transaction = $8,985,163.

6.5.2. Fee and Compensation Disclosure

The proposed regulations incorporate the existing standard regarding reasonable compensation for the provision of services found at 26 CFR 54.4975–6(e). This proposed regulation mirrors the text of the statutory exemption by requiring the automatic portability provider to disclose the information that a service provider to the plan would be required to disclose under 29 CFR 2550.408b–2(c) to a responsible plan fiduciary of the transfer-in plan. For purposes of this requirement, the disclosures would relate to the automatic portability provider's services performed as an automatic portability provider but not to other services that may be provided.

The proposed regulation includes text that mirrors the statutory text allowing a direct fee to be paid by a plan sponsor if it is in lieu of a fee imposed on an IRA owner. The proposed regulation includes one exception to the general restriction on third-party compensation. Specifically, under the proposal, an automatic portability provider would be able to share a portion of its fee or compensation with another automatic portability provider as long as the overall fee paid, directly or indirectly, by the plan or IRA does not increase as compared to the fees disclosed to plan fiduciaries, plan participants, and IRA owners.

PTE 2019–02 requires RCH to fully disclose fees to a plan fiduciary and receive written approval from the plan fiduciary. Therefore, the Department expects that no change in cost will occur as a result of this requirement in the proposed regulation.

6.5.3. Initial Enrollment Notice

The Department proposes that the initial enrollment notice would include a variety of information regarding the nature of the automatic portability transaction and additional aspects of the IRA arrangement (the same information to be included in the pre-transaction notice), discussed below. The Department anticipates that this notice requirement could be satisfied by including the information in the notice otherwise required under Code section 401(a)(31)(B) upon the establishment of a Default IRA.

PTE 2019–02 requires a ''Mandatory Distribution Letter'' be sent to participants before establishing a Default IRA. PTE 2019–02 also requires a ''Welcome Letter'' to be sent to the same individual no later than three business days after the Default IRA receives the distributed assets. Together, these two letters must include all the information required in the initial enrollment notice in the proposed regulation. The Department estimates the revision and combination of these documents to satisfy the proposed rule will take an hour of an attorney's time at a wage rate of $159.34 resulting in a total cost of $159.34 to RCH/PSN. Because RCH/PSN is permitted to consolidate the two notices required under PTE 2019–02 into a single notice, a burden savings of 22,182 hours in the first year and 20,194 hours in subsequent years of a clerical worker's time with an equivalent cost savings of approximately $1.3 million each year would result.[119]

The mailing and material costs are also expected to be reduced due to the combination of two notices into one. As previously noted, the Department assumes that 3.9 percent of recipients enumerated in the previous paragraph will receive mailed notices, and that the remainder will receive notices electronically, resulting in roughly 665,458 fewer notices in the first year and on average 605,806 fewer in subsequent years being mailed. since the initial enrollment notice provides an opportunity for RCH/PSN to consolidate two notices into one. This reduction of notices being sent has an associated estimated cost savings of nearly $23,600 in the first year and $21,500, on average, in subsequent years.[120]

6.5.4. Pre-Transaction Notice

Section 2550.4975f–12(b)(5)(iv) of the proposed regulation incorporates the statutory provisions of Code section 4975(f)(12)(B)(v). The proposed regulation provides additional clarification regarding the timing of the pre-transaction notice by requiring that the notice be sent no earlier than 90 days in advance of the automatic portability transaction.

PTE 2019–02 included a pre-transaction notice, referred to as a ''Consent Letter.'' The letter is required to be sent before moving Default IRA assets into a transfer-in plan after the locate and match service makes a match. The content of the Consent Letter is substantially the same as the pre-transaction notice required by the statute and incorporated into the proposed regulation. The Department believes there will be a minimal transition cost to RCH/PSN attributable to bringing the ''Consent Letter'' into compliance to serve as the pre-transaction notice. This is estimated to take one hour of a legal professional's time at a wage rate and total cost of $159.34.

The Department estimates that there will be a 61,121 increase in pre-transaction notices in the first year and that there will be, on average, 384,265 additional notices in subsequent years. This increase will result in roughly 2,037 hours in year one and, on average, 12,809 hours in subsequent years of clerical workers' time at 2 minutes per notice on average, at a rate of $63.45 for a total net cost of roughly $129,271 in year one and, on average, $812,720 in subsequent years. The notices are expected to consist of no more than two pages. The mailing and materials cost associated with the pre-transaction notices are estimated as 2,384 notices being sent in the first year at an estimated cost of $1,812 and, on average, 14,986 notices sent in subsequent years with an estimated average cost of $11,390.[121]

6.5.5. Post-Transaction Notice

This post-transaction notice, which would occur after a transfer-in plan receives an individual's IRA funds, is the last notice that the automatic portability provider would be required to provide to the IRA owner or plan participant. Section 2550.4975f–12(b)(5)(v) of this proposed regulation incorporates the statutory requirements. The statute requires that no later than three business days after the completion of an automatic portability transaction, the automatic portability provider shall

[119] The Department assumes RCH will combine these notices as a cost savings measure, resulting in 6,117,708 fewer notices needing to be prepared and sent over the 10-year period. The cost savings is calculated as –6,117,708 notices × 2/60 hours to prepare each notice on average × $63.45 wage rate for clerical staff = −$12,938,952.42, annualized to $1,293,895.24.

[120] The materials and mailing burden is calculated as: Year one—665,458 fewer notices required × 3.9% mailed = 25,953 fewer notices. Each notice is estimated as 5 pages and mailed first class at a cost of $0.66 per notice. The cost is (5 pages × $0.05 per page) = $0.25 per notice + $0.66 for postage, resulting in a cost of $0.91 per notice. $0.91 × –25,953 fewer notices = a savings of S23,617.10. Subsequent years average: 605,806 fewer notices required × 3.9% mailed = 23,626 fewer notices. Each notice is estimated as 5 pages and mailed first class at a cost of $0.66 per notice. The cost is (5 pages × $0.05 per page) = $0.25 per notice + $0.66 for postage, resulting in a cost of $0.91 per notice. $0.91 × 23,626 fewer notices = a savings of $21,500.04.

[121] The materials and mailing burden is calculated as: Year one 61,121 notices × 3.9% mailed = 2,384 notices. Each notice is estimated as 2 pages and mailed first class at a cost of $0.66 per notice. The cost is (2 pages × $0.05 per page) = $0.10 per notice + $0.66 for postage, resulting in a cost of $0.76 per notice. $0.76 × 2,384 notices = S1,811.63. Subsequent years average: 384,265 × 3.9% mailed = 14,986 notices. Each notice is estimated as 2 pages and mailed first class at a cost of $0.66 per notice. The cost is 2 pages × $0.05 per page) = $0.10 per notice + $0.66 for postage, resulting in a cost of $0.76 per notice. $0.76 × 14,986 notices = $11,389.60.

provide notice to the IRA owner of the actions taken by the automatic portability provider with respect to the IRA. The statute also requires the notice to include all relevant information regarding the location and amount of any transferred assets, a statement of fees charged against the IRA or transfer-in plan account in connection with the transfer, and a customer service contact phone number for the automatic portability provider.

PTE 2019–02 did not require a post-transaction notice. Therefore, as compared to the statutory requirements, this new requirement has the potential to add cost to PSN/RCH as an automatic portability provider. The Department estimates the development of a model notice will take a legal professional two hours at an hourly wage rate of $159.34 for a total cost of $319 in the first year.

The Department estimates that in the first year 397,749 notices will be sent to account owners and, on average, 736,825 notices to IRA owners subsequent years within the projection window creating an hour burden of 13,258 and 24,561 respectively, assuming 2 minutes per notice, on average, of clerical workers' time. The post-transaction notice is expected to be no longer than two pages. Therefore, the Department estimates an equivalent cost of approximately $0.8 million in the first year and an average of $1.6 million in each subsequent year within the projection window.[122]

As discussed at the beginning of this section, the Department estimates that 3.9 percent of the notices would be sent by mail. The Department estimates that an automatic portability provider would incur a cost of $0.76 to send each disclosure, which is comprised of $0.66 for postage and $0.10 for the paper and printing costs of two pages. Therefore, the materials and postage costs are estimated as 15,512 notices at $0.76 per notice totaling $11,789 in the first year and an average of 28,736 notices at $0.76 per notice totaling $21,839, on average, in years 2 through 10.

6.5.6. Culturally and Linguistically Appropriate Notices

The proposed regulation would require that notices and disclosures to participants and IRA owners be provided in a culturally and linguistically appropriate manner if their address is in a county where 10 percent or more of the population is literate only in the same non-English language. To determine whether a county meets this threshold, the Department relies on American Community Survey (ACS) data published by the United States Census Bureau. In the 2016–2020 ACS data, 230 counties or county equivalents met or exceeded the 10 percent threshold (rounded to the nearest percent).[123]

In these counties, the automatic portability provider must include in the English versions of all required notices and disclosure, a statement prominently displayed in any applicable non-English language, which clearly indicates how to access the language services provided by the automatic portability provider. The Department estimates that satisfying this requirement would result in a de minimis cost. The automatic portability provider would also be required to provide oral language services (such as a telephone customer assistance hotline) that include answering questions in any applicable non-English language and providing assistance with automatic portability transactions in any applicable non-English language.

Additionally, the automatic portability provider would be required to provide, upon request, a notice or disclosure in any applicable, non-English language. In the 2016–2020 ACS, the Department identified eight languages that met the 10 percent threshold in at least one county. The eight languages were Spanish, Chinese, Navajo, Tagalog, Samoan, Carolinian, and Chamorro. For the purposes of this analysis, the Department estimates that an automatic portability provider will need to translate the notices into eight languages. Document translation costs vary depending on the length of the document, the complexity of the document, and the complexity of the language.[124] One source estimates that the average translation cost per page ranges between $20 and $130.[125] Due to the potential complexity of the documents, the Department assumes the cost will be towards the higher-end of the range and therefore, on average, it will cost $100 per page to translate the notices in this proposal. The Department requests comment on this cost assumption. The translation costs for the initial enrollment notice, pre-transaction notice, and the post-transaction notice are summarized in the table below.

TABLE 8—TRANSLATION COSTS

	Languages	Pages	Cost per page	Cost
Initial Enrollment Notice	8	5	$100	$4,000
Pre-Transaction Notice	8	2	100	1,600
Post Transaction Notice	8	2	100	1,600
Total		9		7,200

A similar analysis conducted by the Department estimated that the average requests for translations of written documents averages 0.098 requests per 1,000 health benefit plan members.[126] For the purposes of this analysis, the Department assumes that recipients of the notices in this proposal would request translations at the same rate. The estimated number of translated notices requested is summarized in the table below. The Department requests comment on how frequently translations would be requested for such notices.

[122] Values calculated as follows: Year 1—397,749 notices × 2/60 clerical hours = 13,258 burden hours. $63.45 clerical worker wage × 13,258 burden hours = $841,239. Subsequent years: 736,825 notices × 2/60 clerical hours = 24,561 burden hours. $63.45 clerical worker wage × 25,572 burden hours = $1,558,384.

[123] The relevant ACS data set used is the U.S. Census, 2016–2020 American Community Survey 5-Year Estimates, Table B16001, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over, available at *https://data.census.gov/cedsci/table?tid=ACSDT5Y2020.B16001.*

[124] American Translators Association, *How Much Does a Translation Cost?* (May 2023), *https://www.atanet.org/client-assistance/how-much-does-translation-cost/.*

[125] Lettier, Mariel, *Translation Rates in 2023—A Complete Guide,* Rush Translate, (2023), *https://rushtranslate.com/blog/translation-rates#:~:text=for%201000%20words.-,What%20is%20the%20average%20rate%20for%20translation%20per%20page%3F,certified%20translation%20and%20charges%20%2424.95.*

TABLE 9—TRANSLATED NOTICES REQUESTED

	Year 1	Years 2–10 (average)
Initial Enrollment Notice:		
Total Initial Enrollment Notice	954,786	1,014,438
× *Percent Requesting Translated Notice*	0.0098%	0.0098%
= *Translated Notices Distributed*	94	100
Pre-Transaction Notice:		
Total Pre-Transaction Notice	403,397	747,287
× *Percent Requesting Translated Notice*	0.0098%	0.0098%
= *Translated Notices Distributed*	40	74
Post-Transaction Notice:		
Total Post-Transaction Notice	397,749	736,825
× *Percent Requesting Translated Notice*	0.0098%	0.0098%
= *Translated Notices Distributed*	39	73
Total Translated Notices Distributed	173	246

Note: Components may not sum to parts due to rounding.

The Department assumes that it would take a clerical professional two minutes to prepare and send each disclosure. The Department assumes that all of the translated notices would be sent by mail. The Department requests comment on this assumption. Additionally, the Department estimates that an automatic portability provider would incur a cost of $0.76 to send each disclosure, including $0.66 for postage and $0.05 for the printing costs of each page. The hour burden, equivalent cost, postage, and material costs are summarized in the table below.

TABLE 10—BURDEN TO PREPARE AND SEND TRANSLATED DISCLOSURES

	Year 1	Years 2–10 (average)
Prepare and Send Notice (automatic portability provider):		
Number of Notices	173	246
× *Annual Hour Burden per Transaction (Hours)*	*2/60*	*2/60*
= Total Hours	5.8	8.2
× *Labor Cost (Clerical Professional)*	*$63.45*	*$63.45*
= Equivalent Cost	$366	$528
Material and Postage Cost (automatic portability provider):		
Initial Enrollment Notices:		
Number of Notices Sent by Mail	94	100
× *Postage and Material Cost per Notice (5 Pages)*	*$0.91*	*$0.91*
= Postage and Material Cost	$86	$91
Pre-Transaction Notices:		
Number of Notices Sent by Mail	40	74
× *Postage and Material Cost per Notice (2 Pages)*	*$0.76*	*$0.76*
= Postage and Material Cost	$30	$56
Post-Transaction Notices:		
Number of Notices Sent by Mail	39	73
× *Postage and Material Cost per Notice (2 Pages)*	*$0.76*	*$0.76*
= Postage and Material Cost	$30	$55
Total Hour Burden	6	8
Total Equivalent Cost	$366	$528
Total Postage and Material Cost	$146	$202

Note: Components may not sum to parts due to rounding.

6.5.7. Summary Plan Description

The Department proposes a requirement that the automatic portability provider provide the administrator of participating plans with a model description of the automatic portability program, including fees and expenses, that the administrator could use in fulfilling its SPD obligations, as applicable.

PTE 2019–02 included an SPD condition but was silent on which party had the obligation to ensure compliance. However, given the fact that RCH was the entity in control of the fees, the Department expects that the SPD condition of PTE 2019–02 would have been fulfilled in a manner similar to that in the proposed regulation. Therefore, the Department estimates no additional incremental burden to RCH/PSN as a result of the proposed regulation.

6.6. Searches

The proposed regulation parallels the Code section 4975(f)(12)(B)(viii) requirement that the automatic portability provider query on at least a monthly basis whether any individual with an IRA has an account in a transfer-in plan. Under the proposal, the automatic portability provider must perform ongoing participant address validation searches via automated checks of National Change of Address

records, two separate commercial locator databases, any internal databases maintained by the automatic portability provider, and a manual internet-based search if a valid address is not obtained from the automated checks. The proposal would require these verification steps to be performed at least twice in the first year an account is entered into the automatic portability provider system and once a year thereafter.

PTE 2019–02 included an identical requirement regarding monthly searches. The Department assumes that this process is automated via technology and has de minimis marginal cost with respect to number or records being searched; therefore, this aspect of the proposal is not expected to add additional cost to RCH/PSN. PTE 2019–02 also included a general requirement to take ''all prudent actions necessary to reasonably ensure that the Plan's participant and beneficiary data is current and accurate.'' Although RCH represented to the Department that it would perform address validation searches in line with the requirement in the proposed regulation, the condition in PTE 2019–02 did not specify the frequency of those searches nor the additional parameters in the proposal regarding participant address validation searches. The Department believes, due to the representation from RCH in connection with the individual exemption, that the proposed regulation will therefore not add additional cost. However, the Department requests comment on whether the current framework for executing automatic portability transactions of RCH/PSN is expected to include a process for ongoing address validation searches for Default IRAs that are included in the arrangement (*i.e.,* those which are eligible to be moved into a transfer-in plan through the execution of an automatic portability transaction).

6.7. Monitoring Transfers

Section 2550.4975f–12(b)(7) of the proposed regulation requires that the automatic portability provider ensure that each transfer-in plan for whom the automatic portability provider performs automatic portability transactions designates a plan official responsible for monitoring transfers into the plan and confirming that amounts received on behalf of a participant are invested properly.

Although the Department believes that monitoring transfers is a necessary component of an automatic portability arrangement, PTE 2019–02 did not include a condition explicitly mandating that a plan official monitor transfers into the plan. As compared to PTE 2019–02, the Department does not believe the proposed requirement regarding monitoring transfers will likely add cost because that should be a normal act of routine plan administration when assets are rolled into a plan.

6.8. Policies and Procedures

Section 2550.4975f–12(b)(9) incorporates the statutory limitation on discretion and expands upon the statutory text by specifying that an automatic portability provider will be deemed to satisfy the limited discretion requirement if it establishes, maintains, and follows policies and procedures regarding the process for executing automatic portability transactions.

PTE 2019–02 included a condition on the limitation of discretion but did not include a policies and procedures component that would result in the condition being satisfied. The Department believes that it would be standard business practice for RCH/PSN to have policies and procedures in place to govern the various conditions of PTE 2019–02 to ensure that all automatic portability transactions are executed consistently and in a manner that can be independently audited. Although an automatic portability provider is not required to establish the policies and procedures to satisfy the limited discretion aspect of the statute and proposed regulation, the Department anticipates that RCH/PSN will choose to take advantage of the ''deemed satisfied'' aspect of the proposed regulation. The Department assumes that a legal professional with a wage rate of $159.34 will spend 10 hours reviewing the existing policies and procedures to ensure compliance with the requirements in the proposed rule, resulting in an equivalent cost of $1,593.40.[127] In subsequent years, 2 hours is assumed for a legal professional to review and update the procedures at an estimated cost of $319 per annum.[128]

6.9. Audit

Code section 4975(f)(12)(B)(xi) includes an annual audit requirement to be conducted in accordance with regulations promulgated by the Secretary. The statute requires that an audit be conducted that demonstrates compliance with Code section 4975(f)(12) and any regulations thereunder and that identifies any instances of noncompliance with the statute or such regulations. The statute requires the automatic portability provider to submit a copy of the auditor's report to the Secretary in such form and manner as specified by the Secretary.

PTE 2019–02 required an annual audit conducted by an independent auditor. The auditor is required to review a representative sample of transactions and related undertakings, sufficient for the auditor to make a variety of determinations regarding compliance with PTE 2019–02. Those findings must then be included in a report that is sent to the Office of Exemption Determinations at the Department, the cost of which is discussed below.

The timing for submission of the audit report in the proposed regulation follows the timing from PTE 2019–02. However, as compared to PTE 2019–02, the proposed regulation has a minor difference as a result of the proposed correction provisions. Rather than have the auditor submit the report directly to the Department as was the case under PTE 2019–02, the proposed regulation requires that the audit report shall be provided first to the automatic portability provider, who will thereafter submit the report to the Department after reviewing the audit report and certifying that it has done so.

The parameters of the audit in the proposed regulation, while intended to align with the PTE 2019–02 audit, provide more detail regarding the form and content of the audit, in consideration of the statutory requirements and other areas where the Department has proposed requirements for the purposes of regulatory clarity. The audit requirement of the proposed regulation also accounts for the corrections that may occur in accordance with this proposal. PTE 2019–02 did not specifically include correction parameters. The cost associated with the proposed correction mechanisms is described in the next section.

The Department anticipates the audit parameters of the proposed regulation will add cost to RCH/PSN as compared to what they might otherwise have incurred under PTE 2019–02. First, the proposed regulation requires the audit report to include the total number of completed automatic portability transactions during the audit period. Second, the proposed regulation requires the audit report to address specifically whether, in the reviewed

[127] The hour burden is estimated as: 1 automatic portability provider × (10 hours) = 10 hours. The equivalent cost is estimated as: 1 automatic portability provider × (10 hours) × $159.34 = $1,593.40, rounded to $1,593.

[128] The hour burden is estimated as: 1 automatic portability provider × (30/60 hours) = 30/60 hours. The equivalent cost is estimated as: 1 automatic portability provider × (2 hours) × $159.34 = $318.69, rounded to $319.

sample, the appropriate accounts in the transfer-in plan received all the assets due as a result of the automatic portability transaction.

Due to the increase in required actions for the audit, the Department estimates the proposed regulation will increase the cost of performing the audit by roughly 20 percent. The Department estimates audit costs in the absence of the proposed rule to be close to $25,000 per year. Therefore, the Department estimates that the proposed rule will increase audit costs by approximately $5,000 per year. The Department seeks comment on this estimate.

There are several actions the automatic portability provider will need to take in support of the audit requirements, which are outlined below. To ensure the accuracy of certain information that the Secretary is required to provide to Congress periodically, the proposed regulation requires the audit report to include information that was not specifically contemplated under PTE 2019–02, and which may not be directly in the automatic portability provider's possession. If the information is not in the possession of the automatic portability provider, the proposed regulation requires the automatic portability provider to require contractually that the information to be provided in connection with its services as an automatic portability provider. If this obligation is not already included in RCH/PSN's contracts with recordkeepers and plans, RCH/PSN may need to update those agreements. The Department estimates updating the standardized contracts would take a lawyer one hour at a wage rate and total cost of $159.34. Assuming that all 185,000 plans currently covered by the automatic portability provider would have their contracts updated with the standard contract, the Department estimates that a plan fiduciary will spend 15 minutes to execute the updated contract. This results in a burden of 46,250 hours of plan fiduciaries' time, at a wage rate of $134.93, resulting in a total cost of $6,240,513.[129] Combining these two components of this portion of the proposed rule results in an equivalent cost of $6,240,672.

Although anticipated under PTE 2019–02, there was not an explicit condition for the automatic portability provider to include a certification filed with the written audit report, under penalty of perjury, that the automatic portability provider has reviewed the audit report. Nor was there a condition requiring the automatic portability provider to certify that it has addressed, corrected, or remedied any noncompliance or inadequacy in its compliance or has an appropriate written plan to address any such issues identified in the audit report. Because the Department believes RCH/PSN would necessarily be reviewing the audit under PTE 2019–02, it has not attributed a cost to that specific aspect of the proposed regulation. However, with respect to the certifications, the Department estimates that it will take a legal professional 3 hours to draft the certifications and a senior executive 30 minutes to execute the certification, for an added cost of $542 in the first year and $64 in subsequent years.[130]

Finally, there would be additional resources expended in collecting and providing the additional records and for the plan to submit the audit report to the Department in place of the auditor. The Department estimates a clerical worker with a wage rate of $63.45 would spend an additional 5 hours collecting and providing documentation and records for the audit and approximately 15 minutes sending the report once finalized. The resulting cost burden for these actions is $333.[131]

6.10. Corrections

To effectuate the intent of this provision, the Department is proposing three components for corrections in the event the auditor determines the automatic portability provider was not in compliance with the statute and related regulations: an opportunity for an automatic portability provider to make certain self-corrections; additional recommendations from the auditor; and the Secretary requiring an automatic portability provider to submit to supplemental audits and corrective actions if significant compliance issues are uncovered.

Although PTE 2019–02 did not include any correction provisions, the Department believes the availability of self-correction will generally provide a benefit to RCH/PSN as opposed to a cost. However, in connection with the proposed regulation's correction provisions, the automatic portability provider must establish policies for the corrections permitted by the proposal. The Department expects that RCH/PSN will need to develop policies related to corrections that may not already be included in other pre-existing policies and procedures governing their program. The Department assumes the policies would be developed by an in-house attorney with a wage rate of $159.34 and would take roughly 20 hours resulting in a one-time cost of $3,187.

Additionally, the proposed regulation also includes provisions relating to the auditor's review of the automatic portability provider's compliance that were not specifically included in PTE 2019–02. If the auditor identifies any instances of noncompliance, then RCH/PSN would be required by the proposal to correct those issues as soon as reasonably practicable. The Department believes there may be some added cost associated with remediating compliance issues. The Department lacks the information necessary to identify the extent of noncompliance issues that might be uncovered. However, in order to correct issues, the Department assumes that both a Senior Executive and a lawyer would likely be involved. The Department estimates each would spend 10 hours considering and developing remedies to audit findings. The cost for the lawyer is estimated as 10 hours at a wage rate of $159.34 resulting in a cost of $1,593. The cost for the Senior Executive is similarly estimated as 10 hours at a wage rate of $128.11 resulting in a cost of $1,281.10. Lastly, a summary of the corrective actions taken is to be sent to the auditor. The Department assumes that a clerical worker with a wage rate of $63.45 will spend two hours organizing and communicating the summary to the auditors, at a cost of $127. The total annual cost to address audit findings and communicate the summary of actions taken is estimated as the sum of these three costs, $3,001.

The ability of the Department to impose additional supplemental audits and corrective actions could also add cost. For instance, if the Department were to impose a supplemental audit, the expected cost to RCH/PSN would likely be the same as the cost of the required annual audit. The Department estimates that no more than one supplemental audit would be imposed in any particular year, but also expects the imposition to be rare. To account for the possibility, the Department assumes one supplemental audit would occur in

[129] The cost to update the contracts is calculated as: 185,000 participating plans × (15/60) hours × $134.93 plan fiduciary wage rate = $6,240,512.50. Accounting for the $159.34 cost for a lawyer to update the contract results in a total of $6,240,671.84, which is rounded in the text.

[130] The cost to draft the certification is a one-time cost calculated as: 3 hours × $159.34 lawyer wage rate = $478.02, rounded to $478. A senior executive would need to execute the certification annually. The certification cost is calculated as (30/60) hours × $128.11 sr. executive wage rate = $64.06, rounded to $64. Therefore, the first year cost is $478.02 + $64.06 = 542.08.

[131] The cost to support and transmit the audit by a clerical worker is estimated as: (5 hours × $63.45 wage = $317.25) + ((15/60) hours × $63.45 wage rate = $15.86) = $333.11.

the fifth year of the estimation window at a cost of $30,000, which is the estimated cost of the annual audit.

If the Department were to impose a temporary prohibition on relying upon the statutory exemption, the cost to RCH/PSN associated with that would generally be a function of the number of automatic portability transactions multiplied by the revenue per transaction for the period in which they could not use the exemption. Due to the novelty of the arrangement, the Department currently lacks data to estimate the magnitude of this cost.

6.11. Website

The proposed regulation in paragraph (d) parallels the statutory language in Code section 4975(f)(B)(xii) requiring the automatic portability provider to: (1) maintain a website which contains a list of recordkeepers with respect to which the automatic portability provider carries out automatic portability transactions; (2) list all fees paid to the automatic portability provider; and (3) indicate the number of plans and participants covered by each recordkeeper. Under the proposed regulation, the list would have to include the fees and the identity of the party or account that is paying the particular fee. The proposal would also require the website to display automatic portability transaction-related information in a way that differentiates that information from other information or elements of the website (*e.g.,* separately identifying the automatic portability transaction fees and services from fees and services in connection with establishing and maintaining custody of a Default IRA).

PTE 2019–02 required a website that includes a list of all participating recordkeepers but did not require the additional detail regarding a list of all fees paid to the automatic portability provider, or the number of plans and participants covered by each recordkeeper. The Department anticipates that this information will be readily available to RCH/PSN and that they will update their website to include all the information in a format that meets the requirements in the proposed rule.

The Department estimates that a Senior Executive would spend one hour providing a web designer the requirements for the disclosures in the first year, resulting in an equivalent cost of $128.[132] Additionally, the Department estimates that it would take a web designer five hours to update and test the website in the first year, resulting in an equivalent cost of $778.[133] The Department estimates that it would take a web developer one hour in subsequent years to make any necessary revisions or updates to the disclosures, resulting in an equivalent cost of $156.[134]

6.12. Limitations on Exculpatory Provisions

The limitation on exculpatory provisions in the proposed regulation is substantially identical to the limitation in PTE 2019–02. Therefore, the Department anticipates no additional cost to RCH/PSN.

6.13. Record Retention

This proposed regulation incorporates the statutory language in Code section 4975(f)(12)(xi)(I) regarding record retention by requiring an automatic portability provider to maintain, for not less than six years, records sufficient to demonstrate compliance with the requirements of the statute and this proposed regulation and make them available to authorized employees of the Department and the Department of the Treasury within 30 calendar days of a written request.

PTE 2019–02 had a broader recordkeeping provision with respect to who could request records as compared to the statutory provision. The Department believes this could result in cost savings to RCH/PSN because plan fiduciaries and IRA owners can no longer request the records. However, the Department does not believe this will change the cost of retaining the records. The Department does not know how many plan fiduciaries or IRA owners would request records, but expects it would be infrequent, resulting in a de minimis cost reduction to RCH/PSN.

7. Transfers

7.1. Transfers Resulting From Open Participation

Section 2550.4975f–12(g) of this proposed regulation parallels Code section 4975(f)(12)(B)(iv) by requiring, as a condition of the availability of the exemption, that the automatic portability provider offer automatic portability transactions on the same terms to any transfer-in plan. The Department is also proposing that open participation would require that the automatic portability provider not restrict or limit the ability of an employer-sponsored retirement plan, IRA custodian or IRA provider, or recordkeeper to engage other automatic portability providers to execute automatic portability transactions. PTE 2019–02 required RCH to offer the program in a functionally identical manner as the open participation requirement of the statute. However, it did not include a condition similar to the proposed regulation requirement that ensures a plan sponsor is not restricted from engaging more than one automatic portability provider. Since this requirement reduces barriers to entry, it will tend to encourage RCH/PSN to keep its fee low to discourage other automatic portability providers from competing in the market. This would represent a transfer from RCH/PSN to participants in the form of lower fees and to other automatic portability providers (if others enter the market), in the form of lower barriers to entry.

7.2. Transfer of Foregone Government Revenue to Participants

Assets that stay in the tax-preferred retirement system rather than being cashed out will not be subject to regular income tax until a future date when they are distributed. They will also avoid altogether the 10 percent penalty tax on early distributions that would have applied to many cashouts. As the participants pay less in taxes, this represents a transfer from the government to participants in the form of increased tax expenditures supporting the retirement system.

The Department estimates that over the ten-year estimation period the proposed rule will lead to 1.5 million fewer cashouts with a value of approximately $4.6 billion. The Department assumes that the marginal income tax rate for small account holders would be 12 percent.[135] The Department also assumes that a 10 percent tax penalty applies to half of the foregone cashouts. The other foregone cashouts are assumed to fall under one of the exceptions; for example, the separating participant turns 55 or older

[132] The hour burden is estimated as: 1 automatic portability provider × (1 hour) = 1 hour. The equivalent cost is estimated as: 1 automatic portability provider × (1 hour) × $128.11 = $128.11, rounded to $128.

[133] The hour burden is estimated as: 1 automatic portability provider × (5 hours) = 5 hours. The equivalent cost is estimated as: 1 automatic portability provider × (5 hours) × $155.61 = $778.05, rounded to $778.

[134] The hour burden is estimated as: 1 automatic portability provider × (1 hour) = 1 hour. The equivalent cost is estimated as: 1 automatic portability provider × (1 hour) × $155.61 = $155.61, rounded to $156.

[135] U.S. Internal Revenue Service, ''IRS Provides Tax Inflation Adjustments for Tax Year 2024'' website at *https://www.irs.gov/newsroom/irs-provides-tax-inflation-adjustments-for-tax-year-2024#:~:text=Marginal%20rates%3A%20For%20tax%20year,for%20married%20couples%20filing%20jointly*).&text=The%20lowest%20rate%20is%2010,for%20married%20couples%20filing%20jointly).

in the calendar year in which they take the distribution, or they are disabled, or they have certain medical expenses.[136] The Department estimates that the amount of the transfer from the government to participants would be about $790 million.[137]

8. Regulatory Alternatives

Section 6(a)(3)(C)(iii) of Executive Order 12866 requires a significant regulation, and encourages other regulations, to include an assessment of the costs and benefits of potentially effective and reasonable alternatives to the planned regulation. The Department considered several alternative approaches in developing this proposed regulation which are discussed below.

8.1. Do Not Issue Regulations—Rely Only on Sub-Regulatory Guidance

The Department considered not proposing regulations with respect to the automatic portability provision included in section 120 of the SECURE 2.0 Act. Section 120(c) directs the Secretary of Labor to ''issue such guidance as may be necessary to carry out the purposes of the amendments made by this section, including regulations or other guidance'' no later than 12 months after the enactment of the statute. To this end, the Department has considered whether its responsibilities under section 120(c) could be satisfied by issuing only sub-regulatory guidance. The Department considered issuing guidance stating that compliance with the individual exemption would be sufficient to comply with the statutory exemption. However, since the Department anticipates that entities not engaging in automatic portability transactions may wish to enter the automatic portability market in the future, the Department maintains that issuing the proposed regulation would address any uncertainty on complying with the statutory exemption in a manner that is consistent with directives expressed in section 120(c).

8.2. Issue More Limited Regulations

The Department considered issuing limited regulations concerning only the portions of section 4975(f)(12) focused on the audit and the acknowledgement of fiduciary status, both of which called on the Department to promulgate regulations to determine compliance. In so doing, the Department could have issued sub-regulatory guidance with respect to compliance with the rest of the exemption. The Department did ensure that these proposed regulations provide the necessary blueprint for completing a comprehensive audit and sufficient acknowledgement of fiduciary status. However, given that regulations were to be proposed, the Department believes that more comprehensive regulations ensure that automatic portability transactions are protective of plan participants and beneficiaries. Furthermore, the Department believes that the novel nature of automatic portability transactions necessitates comprehensive proposed regulations followed by a notice-and-comment process in which stakeholders can provide input.

8.3. Do Not Require an Initial Enrollment Notice

The Department considered not including a requirement for an initial enrollment notice in the proposed regulations. The statute only requires that an automatic portability provider furnish IRA owners with a pre-transaction notice and a post-transaction notice. However, section 120(c)(1) gives the Department the statutory authority to require that automatic portability providers furnish a notice ''in advance of'' the pre-transaction notice. The Department was not mandated to require additional notices and could have considered the pre-transaction notice sufficient to provide IRA owners with information regarding the automatic portability transactions. However, the Department determined that the initial enrollment notice helps to ensure the IRA owner's awareness and understanding of the automatic portability transaction, including but not limited to, the individual's right to affirmatively elect not to participate in the transaction, the other available distribution options, the procedures to take advantage of such options, and the procedures for doing so.

8.4. Audit Does Not Have To Be ''Independent''

The Department considered proposing an audit that could be conducted as an internal audit. However, the Department determined that the factors which led to the inclusion of an independent audit in PTE 2019–02 still exist with respect to the execution of automatic portability transactions, even under the new statutory exemption. The novelty of these types of transactions leads the Department to believe that the enhanced oversight and credibility associated with an independent audit favors the Department's approach in the proposed regulation.

8.5. Exemptive Relief for Default IRAs Involving Rollovers of Accounts With a Value of $1,000 or Less

In section E of the preamble the Department is requesting comments on whether it should exercise its general exemption authority under ERISA section 408(a) to provide the same exemptive relief to mandatory distributions with a value of $1,000 or less that the statutory exemption provides to mandatory distributions described in Code section 401(a)(31)(B) with a value between $1,001 and $7,000. The estimated benefits and costs in the regulatory impact analysis for this proposed rule include all accounts with balances of $7,000 or less. As discussed in section E, that analysis aligns with the scope of Department's safe harbor regulation at 29 CFR 2550.404a–2 for automatic rollovers to individual retirement plans and with PTE 2019–02. Excluding accounts with balances of $1,000 or less from the regulatory impact analysis for the proposed rule results in a reduction in the ten-year undiscounted total estimated benefit to $1.7 billion [138] (compared to $2.8 billion in the main analysis),[139] reduction in incremental costs to $12.6 million [140] (compared to $16.2 million in the main analysis),[141] and an increase of 2.3 million automatic portability transactions (compared to an increase of 3.7 million in the main analysis). This results in lower net benefits, but those net benefits are still substantial.

The Department has substantial uncertainty surrounding these estimates and made simplifying assumptions to obtain the estimates. The Department seeks comment and data on the following issues. The number of mandatory distributions or accounts with a balance of $1,000 or less is not certain. The most relevant data available comes from a 2023 Public Retirement Research Lab report concerning public

[136] U.S. Internal Revenue Service, ''401(k) Resource Guide—Plan Participants—General Distribution Rules'' website, at *https://www.irs.gov/retirement-plans/plan-participant-employee/401k-resource-guide-plan-participants-general-distribution-rules#tax-on-early-distributions.*

[137] ($4,646,579,157 * 12%) + ($4,646,579,157 * 50% * 10%) = $789,918,457. Using a 3 percent discount rate, this results in transfers totaling $655,539,147. Using a 7 percent discount rate, this results in transfers totaling $519,964,549.

[138] Using a 3 percent discount rate, this results in total benefits of $1,451,914,016. Using a 7 percent discount rate, this results in total benefits of $1,184,887,753.

[139] Using a 3 percent discount rate, this results in total benefits of $2,341,907,159. Using a 7 percent discount rate, this results in total benefits of $1,911,200,700.

[140] Using a 3 percent discount rate, this results in total costs of $11,259,790. Using a 7 percent discount rate, this results in total costs of $9,869,114.

[141] Using a 3 percent discount rate, this results in total costs of $14,160,023. Using a 7 percent discount rate, this results in total costs of $12,073,029.

defined contribution plans which indicated that 16 percent of all account balances were $1,000 or less. The report also found that 42 percent of all accounts had balances less than $7,000.[142] The primary analysis assumes that all accounts below the distribution threshold are treated the same and the account owners respond similarly regardless of the account balance. The Department seeks data on whether mandatory distributions with $1,000 or less are treated differently by plan sponsors and how the account owners' responses may differ.

9. Uncertainty

The Department acknowledges that there is significant uncertainty in how the automatic portability provider market will develop in the future. The Department requests comments on these sources of uncertainty. For instance, there may be only one automatic portability provider in the future, PSN, or there may be multiple automatic portability providers, which would allow for specialization on the part of the automatic portability providers. If additional firms ultimately enter the market as automatic portability providers, resulting in a less concentrated market with more competitors, that would likely lead to lower fees, better quality service, and less profits for RCH/PSN. These benefits and transfers would accrue to the other automatic portability providers and to participants.

In the baseline scenario, the number of recordkeepers joining PSN was expected to be flat. However, additional recordkeepers could join the network. The model was adjusted to have the number of recordkeepers increase at half the rate as was used for the post-statute and regulation scenario. Changing this assumption led to a ten-year undiscounted total estimated benefit of $615.0 million [143] (compared to $2.8 billion in the main analysis),[144] $9 million in incremental costs [145] (compared to $16.2 million in the main analysis),[146] and an increase of 1.3 million automatic portability transactions (compared to an increase of 3.7 million in the main analysis). Changing this assumption results in lower net benefits, but those net benefits are still substantial.

There is uncertainty about the number of future automatic portability transactions, in large part because the Department is unclear how the proposed rule will impact DB plans and participants. While the Department believes that the statutory regulation applies to both DB and DC plan participants, the Department assumes that DB plan participants will rarely be affected by this proposed rule. DB plan benefits are generally derived from a formula based on an employee's wages and years of service, which an employee is only entitled to once they are fully vested. Vesting periods vary, however, with five-year ''cliff'' vesting being very common and for which few vested participants would separate from service with benefits that are less than $7,000. However, participants in DB plans with graded vesting would be more likely to have accrued benefits below the threshold. The Department requests comments on the number of DB plans and participants that would be affected by this statutory exemption and how they would be impacted.

While the share of workers covered by DB plans has continued to decline, those covered by DC plans have increased substantially, with 45 percent of civilian workers participating in DC plans compared to just 19 percent participating in DB plans.[147] If DC plan coverage continues to increase in the future, the amount of automatic portability transactions will likely also increase.

Workers affected on the margin by increased retirement plan coverage would likely have a lower income on average than workers currently covered by a retirement plan and therefore would tend to contribute less to their plan. Employers sponsoring new plans may also contribute less. These factors would lead to more small balance accounts that would be subject to forced transfers into Default IRAs. These workers would also be more likely to experience a larger number of job turnovers on average, so there would be more Default IRA owners. Under the assumption that DC plan coverage will increase in the future, Default IRA owners would be more likely to have coverage at their new jobs, leading to more automatic portability transactions.

There are also many factors at the level of individual employee behavior that will affect the impact of the statutory exemption and any accompanying regulations. This includes employee decisions about whether to contribute to their DC plan, which will be influenced by plan designs that have automatic enrollment. Furthermore, employee decisions about how to handle their account when separating from a job will be key. It is difficult to know what the trends will be around such decisions in the future since they may be affected by financial advice, and any possible changes to the scope of coverage under DB pension plans and Social Security. While the scale of such developments is difficult to predict, they will surely have a substantial impact on the scope of automatic portability transactions, the number of participants, plans, and financial institutions affected, as well as the size of the benefits and costs.

G. Paperwork Reduction Act

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to allow the general public and Federal agencies to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA). This helps ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

The Department is soliciting comments regarding the information collection request (ICR) included in the NPRM. To obtain a copy of the ICR, contact the PRA addressee below or go to *RegInfo.gov.* The Department has submitted a copy of the rule to the Office of Management and Budget (OMB) in accordance with 44 U.S.C. 3507(d) for review of its information collections. The Department and OMB are particularly interested in comments that:

- Evaluate whether the collection of information is necessary for 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 collection of information, including the

[142] Public Retirement Research Lab, Secure 2.0 Act Low-Balance Distribution Limit Changes: A Look by Age and Tenure, (2023), SECURE 2.0 Act Low-Balance Distribution Limit Changes: A Look by Age and Tenure (*ebri.org*).

[143] Using a 3 percent discount rate, this results in total benefits of $529,400,846. Using a 7 percent discount rate, this results in total benefits of $439,280,667.

[144] Using a 3 percent discount rate, this results in total benefits of $2,341,907,159. Using a 7 percent discount rate, this results in total benefits of $1,911,200,700.

[145] Using a 3 percent discount rate, this results in total costs of $8,265,330. Using a 7 percent discount rate, this results in total costs of $7,488,188.

[146] Using a 3 percent discount rate, this results in total costs of $14,160,023. Using a 7 percent discount rate, this results in total costs of $12,073,029.

[147] U.S. Bureau of Labor Statistics, National Compensation Survey, (March, 2023).

validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronically delivered responses).

Commenters may send their views on the Department's PRA analysis in the same way they send comments in response to the proposed rule as a whole (for example, through the *www.regulations.gov* website), including as part of a comment responding to the broader proposed rule. Comments are due by March 29, 2024 to ensure their consideration.

ICRs are available at *RegInfo.gov* (*reginfo.gov/public/do/PRAMain*). Requests for copies of the ICR can be sent to the PRA addressee:

By mail: James Butikofer, Office of Research and Analysis, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5718, Washington, DC 20210

By email: ebsa.opr@dol.gov

1. Preliminary Assumptions and Cost Estimate Inputs

For the purposes of this analysis, the Department assumes that the percent of retirement investors receiving electronic disclosures would be similar to the percent of plan participants receiving electronic disclosures under the Department's 2002 and 2020 electronic disclosure safe harbors.[148] Accordingly, the Department estimates that 96.1 percent of the disclosures sent to retirement investors would be sent electronically, and the remaining 3.9 percent would be sent by mail.[149] For disclosures sent by mail, the Department estimates that entities will incur a cost of $0.66 [150] for postage and $0.05 per page for material and printing costs.

Additionally, the Department assumes that several types of personnel would perform the tasks associated with information collection requests at an hourly wage rate of $63.45 for clerical personnel, $128.11 for a Senior Executive, $134.93 for a plan fiduciary, $155.61 for a web developer, and $159.34 for a legal professional.[151]

2. Summary of Affected Entities

As discussed in the Affected Entities section of the Regulatory Impact Analysis, the Department expects that the statutory exemption and accompanying proposed regulation would impose paperwork burdens on automatic portability providers and plans. For the purposes of this analysis, the Department assumes that there will only be one entity providing automatic portability provider services. The Department acknowledges that there is significant uncertainty in how the automatic portability provider market will develop in the future. For a larger discussion on the factors the Department considered in this estimate, refer to the Affected Entities section of the Regulatory Impact Analysis.

In 2023, PSN noted that their member recordkeepers represent over 185,000 employer-sponsored retirement plans.[152] PSN does not clarify what type of plans are included in this estimate or whether all of these plans are eligible for automatic portability services. The Department relies on this estimate for purposes of this analysis with the acknowledgement of this uncertainty. The Department requests comment on how many plans are expected be eligible for automatic portability services in the near future, as well as what percentage of plans might be eligible in the future.

As discussed in the Affected Entities section of the Regulatory Impact Analysis, the Department estimates that there are 954,786 account holders for whom default IRAs will be established in the first year, 976,384 in year two and 994,897 in year three. The Department requests comment on this estimate, as well as how it would likely change after the exemption becomes effective. The table below summarizes the Department's estimate for the accounts eligible for automatic portability transactions, the number of accounts that would opt out of automatic portability transactions, and the number of executed automatic portability transactions. For more information on how these estimates were calculated, refer to the Affected Entities section of the Regulatory Impact Analysis.

TABLE 11—AFFECTED PARTICIPANTS/ACCOUNTS

	Year 1	Year 2	Year 3
Participants (Total)	954,786	976,384	994,897
Accounts Located and Matched for Automatic Portability	403,397	526,984	639,538
Accounts Opting Out of Automatic Portability	5,648	8,953	8,953
Automatic Portability Transactions	397,749	519,606	630,585

3. Acknowledgement of Fiduciary Status

The proposed regulation requires the automatic portability provider to acknowledge in writing that it is a fiduciary upon being engaged by a plan fiduciary. The Department anticipates that a single standard acknowledgement would be included in contracts with plan sponsors. The Department estimates that it would take a legal professional one hour to draft this acknowledgement in the first year, resulting in an hour burden of one hour with an equivalent cost of $159.[153]

Additionally, the Department estimates that 185,000 acknowledgements of fiduciary status [154] would be sent to plan

[148] 67 FR 17264, 85 FR 31884.

[149] The Department estimates 96.1 percent of retirement investors receive disclosures electronically. This is the sum of the estimated share of retirement investors receiving electronic disclosures under the 2002 electronic disclosure safe harbor (58.3 percent) and the estimated share of retirement investors receiving electronic disclosures under the 2020 electronic disclosure safe harbor (37.8 percent).

[150] United States Postal Service. ''First-Class Mail.'' (2023). *https://www.usps.com/ship/first-class-mail.htm.*

[151] Internal DOL calculation based on 2023 labor cost data. For a description of the Department's methodology for calculating wage rates, see *https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost-inputs-used-in-ebsa-opr-ria-and-pra-burden-calculations-june-2019.pdf.*

[152] Portability Services Network, *An Industry Led Utility,* (2023), *https://psn1.com/.*

[153] The hour burden is estimated as: 1 automatic portability provider × 1 hour = 1 hour. The equivalent cost is estimated as: 1 automatic portability provider × 1 hour × $159.34 = $159.34, rounded to $159.

[154] As of 2023, PSN estimated that their members represented 185,000 employer-sponsored retirement plans. (Portability Services Network, *A Retirement Industry-Led Utility,* (2023), *https://psn1.com/learning-center/about-psn/a-retirement-industry-led-utility.*)

fiduciaries in the first year and that it would take a clerical professional two minutes to prepare and send the acknowledgement. This results in an hour burden of 6,167 hours with an equivalent cost of $391,275.[155] The Department expects that acknowledgements sent in subsequent years would be included in contract documents and would result in a de minimis burden.

The Department assumes that the acknowledgement of fiduciary status generally would be sent electronically. Therefore, the Department assumes there would be no associated material or postage cost.

4. Summary Plan Description

The proposal would require the automatic portability provider to provide the administrator of participating plans with a model description of the automatic portability program for plan sponsors to include in their summary plan description (SPD), including fees and expenses, as applicable. The Department anticipates that the automatic portability provider would draft and send the same standard model description to all plans. The Department estimates that drafting the SPD would take a legal professional 10 hours, resulting in an hour burden of 10 hours with an equivalent cost of $1,593 in the first year.[156] The Department estimates that it would take a clerical professional two minutes to prepare and send the summary plan description to each of the 185,000 plans, resulting in an annual hour burden of 6,167 hours and an equivalent cost of $391,275.[157]

The Department assumes that this document would be sent electronically and thus would not incur any postage or material costs.

5. Policies and Procedures

The proposal requires automatic portability providers to establish, maintain, and follow written policies and procedures to ensure that they obtain or have access to current and accurate census and contact data on individual participants and IRA owners and to specify standards and timeframes that apply to all automatic portability transactions. The proposal also includes the ability for the automatic portability provider to establish policies and procedures in connection with the limitation on the exercise of discretion. An automatic portability provider will be deemed to satisfy the limited discretion requirement if it establishes, maintains, and follows policies and procedures regarding the process for executing automatic portability transactions.

The Department estimates that it would take a legal professional approximately 10 hours to establish, or modify as applicable, policies and procedures satisfying the requirements in the first year, resulting in an hour burden of 10 hours in the first year with an equivalent cost of $1,593.[158] In subsequent years, the Department estimates that it would take a legal professional two hours for the automatic portability provider to modify the policies and procedures as needed, resulting in an hour burden of two hours with an equivalent cost of $319.[159]

6. Audit

The proposal requires automatic portability providers to retain an independent auditor to conduct an annual audit to demonstrate compliance and identify any noncompliance issues. The auditor shall, at a minimum, review: the policies and procedures, a representative sample of the required disclosures, a representative sample of automatic portability transactions, and the requirements of section 4975(d)(25), 4975(f)(12), and these regulations. The auditor shall prepare a written audit report signed by the auditor.

The Department estimates that it would take a clerical professional five hours to collect and provide records to the independent auditor, resulting in an annual hour burden of five hours with an equivalent cost of $317.[160] While the Department lacks precise information on how much it would cost an automatic portability provider to hire an independent auditor to satisfy the required conditions, the Department estimates that it would cost $30,000. This estimate is based on information previously provided by stakeholders for similar audits, and the Department requests comment on this figure.

The Department estimates that it will take a legal professional three hours to draft the certification in the first year, resulting in an hour burden of three hours and equivalent cost of $478.[161] The Department estimates that it would take a senior executive 30 minutes to execute the certification, resulting in an annual hour burden of 30 minutes with an equivalent cost of $64.[162] Finally, the Department approximates that it would take a clerical professional 15 minutes to send the report to the Department once finalized, resulting in an hour burden of 15 minutes and an equivalent cost of $16.[163]

The proposal requires that the written audit include certain information, described in the regulatory text. If the automatic portability provider does not have direct access to this information, the proposal would require the partnering recordkeepers and participating plans to provide such information as a condition of receiving the automatic portability provider's services. This obligation may require an automatic portability provider to update requirements with its recordkeepers and plans. The Department estimates that updating the standardized contracts would take a legal professional at the automatic portability provider one hour, resulting in an hour burden of one hour and an equivalent cost of $159.[164] Additionally, the Department estimates that it would take 15 minutes for plan fiduciaries to execute the updated contract, resulting in an hour burden of 46,250 hours with an equivalent cost of $6,240,513.[165]

[155] The hour burden is estimated as: 185,000 plan fiduciaries × 2/60 hours = 6,167 hours. The equivalent cost is estimated as: 185,000 plan fiduciaries × 2/60 hours × $63.45 = $391,275.

[156] The hour burden is estimated as: 1 automatic portability provider × 10 hours = 10 hours. The equivalent cost is estimated as: 1 automatic portability provider × 10 hours × $159.34 = $1,593.40, rounded to $1,593.

[157] The hour burden is estimated as: 185,000 plans × 2/60 hours = 6,167 hours. The equivalent cost is estimated as: 185,000 plans × 2/60 hours × $63.45 = $391,275.

[158] The hour burden is estimated as: 1 automatic portability provider × 10 hours = 10 hours. The equivalent cost is estimated as: 1 automatic portability provider × 10 hours × $159.34 = $1,593.40, rounded to $1,593.

[159] The hour burden is estimated as: 1 automatic portability provider × 2 hours = 2 hours. The equivalent cost is estimated as: 1 automatic portability provider × 2 hours × $159.34 = $318.68, rounded to $319.

[160] The hour burden is estimated as: 1 automatic portability provider × 5 hours = 5 hours. The equivalent cost is estimated as: 1 automatic portability provider × 5 hours × $63.45 = $317.25, rounded to $317.

[161] The hour burden is estimated as: 1 automatic portability provider × 3 hours = 3 hours. The equivalent cost is estimated as: 1 automatic portability provider × 3 hours × $159.34 = $478.02, rounded to $478.

[162] The hour burden is estimated as: 1 automatic portability provider × 30/60 hours = 30/60 hours. The equivalent cost is estimated as: 1 automatic portability provider × 30/60 hours × $128.11 = $64.06, rounded to $64.

[163] The hour burden is estimated as: 1 automatic portability provider × 15/60 hours = 15/60 hours. The equivalent cost is estimated as: 1 automatic portability provider × 15/60 hours × $63.45 = $15.86, rounded to $16.

[164] The hour burden is estimated as: 1 automatic portability provider × 1 hour = 1 hour. The equivalent cost is estimated as: 1 automatic portability provider × 1 hour × $159.34 = $159.34, rounded to $159.

[165] The hour burden is estimated as: 185,000 plans × 15/60 hour = 46,250 hours. The equivalent cost is estimated as: 185,000 plans × 15/60 hour × $134.93 = $6,240,512.50, rounded to $6,240,513.

7. Corrections

If the auditor determines the automatic portability provider was not in compliance with the statute and related regulations, the proposal includes an opportunity for self-correction.

As such, the proposal would require the automatic portability provider to establish policies for the corrections permitted by the proposal. The Department assumes that establishing such policies and procedures would take a legal professional 20 hours in the first year, resulting in an hour burden of 20 hours and an equivalent cost of $3,187.[166]

In the case of a violation, the automatic portability provider would be required to correct the violation and document the correction in writing within 30 calendar days of correction. The Department does not expect that an automatic portability provider would have a violation on an annual basis, and the Department acknowledges that the correction and related documentation could vary significantly, depending on the nature of the violation. For the purposes of this analysis, the Department considers the cost on an average annual basis. The Department estimates that, on average, it would take a clerical professional two hours to draft and send the documentation of the correction, resulting in an average annual hour burden of two hours and an equivalent cost of $127.[167]

8. Notices and Disclosures

8.1. Notice to the Secretary of Labor

Under the proposed regulation, within 90 calendar days of the date that the automatic portability provider begins operating an automatic portability transaction program that is intended to rely on prohibited transaction relief, the automatic portability provider must notify the Secretary. Because PTE 2019–02 was issued to a single entity, there was no such requirement in the exemption. However, the Department believes based on the small number of expected automatic portability providers entering the market, that the possible cost burden associated with submitting the simple notice via email to the Department to be roughly $16, which is estimated as 15 minutes of a clerical worker's time with an hourly wage rate of $63.45. This notification needs to be updated to report a change to the legal or operating name(s) of the automatic portability provider that is relying upon the exemption. The Department expects that such a change would be rare and thus does not estimate an associated cost.

8.2. Fee and Compensation Disclosure Requirement

The proposed regulation requires the automatic portability provider to disclose fees and compensation to a fiduciary of the employer-sponsored plan and receive an approval in writing in advance of the transaction. This includes fees and compensation received, directly or indirectly, by the automatic portability provider (including its affiliates) for services provided in connection with the automatic portability transaction. The Department assumes that the disclosure would be standard across transactions, requiring an update no more frequently than once a year. The Department requests comment on this assumption.

The Department estimates that preparing the disclosures of fees and compensation would take a legal professional two hours in the first year to draft the disclosure. This results in a burden of two hours and an equivalent cost of $319 in the first year.[168] The Department estimates that it would take a clerical professional two minutes to prepare and send the disclosure to the fiduciary of the estimated 185,000 plans, resulting in a burden of 6,167 hours in the first year and an equivalent cost of $391,275.[169]

The Department assumes that the disclosure and approval would be sent electronically between the automatic portability provider and the plan. Therefore, the Department assumes there would be no associated material or postage cost.

8.3. Initial Enrollment Notice

The proposal requires an automatic portability provider to send each individual on whose behalf the individual retirement plan was established an initial notice within 15 calendar days of the individual retirement plan's enrollment or participation in an arrangement that includes the possibility of a future automatic portability transaction executed by the automatic portability provider. The Department estimates that preparing this disclosure would take a legal professional two hours, resulting in an hour burden of two hours and an equivalent cost of $319.[170]

As discussed above, the Department estimates that the disclosures would be sent to an average of 975,35 individuals in the first three years, and that it would take a clerical professional two minutes to prepare and send the disclosures. This results in an average hour burden of 32,512 hours with an average equivalent cost of roughly $2 million per year.[171] The Department estimates that an automatic portability provider would incur $0.66 for postage and $0.25 for the paper and printing costs of five pages, which the Department estimates to cost on average $34,615 per year in the first three years.[172]

8.4. Pre-Transaction Notice

639,538 in the third year. The Department estimates that drafting this notice would take a legal professional two hours in the first year and that preparing and sending each disclosure would take a clerical professional two minutes.

As discussed at the beginning of this section, the Department estimates that 3.9 percent of the notices would be sent by mail. The Department estimates that an automatic portability provider would incur a cost of $0.76 to send each disclosure, including $0.66 for postage and $0.10 for the paper and printing costs of two pages. The hour burden, equivalent cost, postage, and material costs are summarized in the table below.

[166] The hour burden is estimated as: 1 automatic portability provider × 20 hours = 20 hours. The equivalent cost is estimated as: 1 automatic portability provider × 20 hours × $159.34 = $3.186.80, rounded to $3,187.

[167] The hour burden is estimated as: 1 automatic portability provider × 2 hours = 2 hours. The equivalent cost is estimated as: 1 automatic portability provider × 2 hours × $63.46 = $126.90, rounded to $127.

[168] The hour burden is estimated as: 1 automatic portability provider × 2 hours = 2 hours. The equivalent cost is estimated as: 1 automatic portability provider × 2 hours × $159.34 = $318.68, rounded to $319.

[169] The hour burden is estimated as: 185,000 plans × 2/60 hours = 6,167 hours. The equivalent cost is estimated as: 185,000 plans × 2/60 hours × $63.45 = $391,275.

[170] The hour burden is estimated as: 1 automatic portability provider × 2 hours = 2 hours. The equivalent cost is estimated as: 1 automatic portability provider × 2 hours × $159.34 = $318.68, rounded to $319.

[171] The detailed annual hour burden is estimated as:

Year 1: 954,786 individuals × 2/60 hours = 31,826 hours. The equivalent cost is estimated as: 31,826 hours × $63.45 = $2,019,372.

Year 2: 976,384 individuals × 2/60 hours = 32,546 hours. The equivalent cost is estimated as: 32,546 hours × $63.45 = $2,065,052.

Year 3: 994,897 individuals × 2/60 hours = 33,163 hours. The equivalent cost is estimated as: 33,163 hours × $63.45 = $2,104,207.

[172] The detailed cost is estimated as: [(((954,786 year 1) + (976,384 year 2) + (994,897 year 3)) = 2,926,067 × 3.9% = 114,117 × (5 pages × $0.05+ $0.66 postage) = $103,846 total for the three years. $103,846.47/3 = $34,615 period average.

TABLE 12—BURDEN AND COST TO DRAFT NOTICE

[Automatic portability provider]

	Year 1	Year 2	Year 3
Affected Entities	1		
× *Annual Hour Burden per Entity (Hours)*	*2*		
= Total Hours	2		
× *Labor Cost (Legal Professional)*	*$159.34*		
= Equivalent Cost	$318.68		

Note: Components may not sum to parts due to rounding.

TABLE 13—BURDEN AND COST TO PREPARE AND SEND NOTICE

[Automatic portability provider]

	Year 1	Year 2	Year 3
Number of Notices	403,397	526,984	639,538
× *Annual Hour Burden per Transaction (Hours)*	*2/60*	*2/60*	*2/60*
= Total Hours	13,447	17,566	21,318
× *Labor Cost (Clerical Professional)*	*$63.45*	*$63.45*	*$63.45*
= Equivalent Cost	$853,184.66	$1,114,570.24	$1,352,623.70

Note: Components may not sum to parts due to rounding.

TABLE 14—MATERIAL AND POSTAGE COST

[Automatic portability provider]

	Year 1	Year 2	Year 3
Number of Notices	403,397	526,984	639,538
× *Percent of Notices Sent by Mail*	*3.9%*	*3.9%*	*3.9%*
= Number of Notices Sent by Mail	15,732	20,552	24,942
× *Postage and Material Cost per Notice*	*$0.76*	*$0.76*	*$0.76*
= Material and Postage Cost	$11,956.32	$15,619.52	$18,955.92

Note: Components may not sum to parts due to rounding.

8.5. Post-Transaction Notice

The proposal requires an automatic portability provider, not later than three business days after an automatic portability transaction is completed, to provide notice to the individual on whose behalf the individual retirement plan was established. As discussed above, the Department estimates that 397,749 automatic portability transactions would occur in first year, 519,606 in the second year, and 630,585 in the third year. The Department estimates that drafting this notice would take a legal professional two hours in the first year and that preparing and sending each disclosure would take a clerical professional two minutes.

As discussed at the beginning of this section, the Department estimates that 3.9 percent of the notices would be sent by mail. The Department estimates that an automatic portability provider would incur a cost of $0.76 to send each disclosure, including $0.66 for postage and $0.10 for the paper and printing costs of two pages. The hour burden, equivalent cost, postage, and material costs are summarized in the table below.

TABLE 15—BURDEN TO DRAFT NOTICE

[Automatic portability provider]

	Year 1	Year 2	Year 3
Affected Entities	1		
× *Annual Hour Burden per Entity (Hours)*	*2*		
= Total Hours	2		
× *Labor Cost (Legal Professional)*	*$159.34*		
= Equivalent Cost	$318.68		

Note: Components may not sum to parts due to rounding.

TABLE 16—BURDEN TO PREPARE AND SEND NOTICE

[Automatic portability provider]

	Year 1	Year 2	Year 3
Number of Notices	397,749	519,606	630,585
× *Annual Hour Burden per Transaction (Hours)*	*2/60*	*2/60*	*2/60*
= Total Hours	13,258	17,320	21,020
× *Labor Cost (Clerical Professional)*	*$63.45*	*$63.45*	*$63.45*

TABLE 16—BURDEN TO PREPARE AND SEND NOTICE—Continued

[Automatic portability provider]

	Year 1	Year 2	Year 3
= Equivalent Cost	$841,239.14	$1,098,966.69	$1,333,687.28

Note: Components may not sum to parts due to rounding.

TABLE 17—MATERIAL AND POSTAGE COST

[Automatic portability provider]

	Year 1	Year 2	Year 3
Number of Notices	397,749	519,606	630,585
× *Percent of Notices Sent by Mail*	*3.9%*	*3.9%*	*3.9%*
= Number of Notices Sent by Mail	15,512	20,265	24,593
× *Postage and Material Cost per Notice*	*$0.76*	*$0.76*	*$0.76*
= Equivalent Cost	$11,789.12	$15,401.40	$18,690.68

Note: Components may not sum to parts due to rounding.

8.6. Culturally and Linguistically Appropriate Notices

The proposed regulation would require that notices and disclosures to participants and IRA owners be provided in a culturally and linguistically appropriate manner if the address of a recipient is in a county where 10 percent or more of the population is literate only in the same non-English language. In these counties, the automatic portability provider must include in the English versions of all required notices and disclosure, a statement prominently displayed in any applicable non-English language clearly indicating how to access the language services provided by the automatic portability provider. The Department estimates that satisfying this requirement would result in a de minimis cost.

Additionally, the automatic portability provider would be required to provide, upon request, a notice or disclosure in any applicable non-English language. In the 2016–2020 ACS data, 230 counties or county equivalents met or exceeded the 10 percent threshold (rounded to the nearest percent).[173] In the 2016–2020 ACS, the Department identified eight languages that met the 10 percent threshold in at least one county. The eight languages were Spanish, Chinese, Navajo, Tagalog, Samoan, Carolinian, and Chamorro. For the purposes of this analysis, the Department estimates that an automatic portability provider will need to translate the notices into eight languages. Document translation costs vary depending on the length of the document, the complexity of the document, and the complexity of the language.[174] One source, estimates that the average translation cost per page ranges between $20 and $130.[175] The Department assumes that, on average, it will cost $100 per page to translate the notices in this proposal. The translation costs for the initial enrollment notice, pre-transaction notice, and the post-transaction notice are summarized in the table below.

TABLE 18—TRANSLATION COSTS

	Languages	Pages	Cost per page	Cost
Initial Enrollment Notice	8	5	$100	$4,000
Pre-Transaction Notice	8	2	100	1,600
Post Transaction Notice	8	2	100	1,600
Total	.....	9	.....	7,200

A similar analysis conducted by the Department estimated that the average requests for translations of written documents averages 0.098 requests per 1,000 health benefit plan members.[176] For the purposes of this analysis, the Department assumes that recipients of the notices in this proposal would request translations at the same rate. The estimated number of translated notices requested is summarized in the table below. The Department requests comment on how frequently translations would be requested for such notices.

[173] The relevant ACS data set used is the U.S. Census, 2016–2020 American Community Survey 5-Year Estimates, Table B16001, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over, available at *https://data.census.gov/cedsci/table?tid=ACSDT5Y2020.B16001.*

[174] American Translators Association, *How Much Does a Translation Cost?* (May 2023), *https://www.atanet.org/client-assistance/how-much-does-translation-cost/.*

[175] Lettier, Mariel, *Translation Rates in 2023—A Complete Guide,* Rush Translate, (2023), *https://rushtranslate.com/blog/translation-rates#:~:text=for%201000%20words.-,What%20is%20the%20average%20rate%20for%20translation%20per%20page%3F,certified%20translation%20and%20charges%20%2424.95.*

[176] 81 FR 92316.

TABLE 19—TRANSLATED INITIAL ENROLLMENT NOTICES REQUESTED

	Year 1	Year 2	Year 3
Total Initial Enrollment Notices	954,786	976,384	994,897
× *Percent Requesting Translated Notice*	0.0098%	0.0098%	0.0098%
= *Translated Notices Distributed*	94	96	97

Note: Components may not sum to parts due to rounding.

TABLE 20—TRANSLATED PRE-TRANSACTION NOTICES REQUESTED

	Year 1	Year 2	Year 3
Total Pre-Transaction Notices	403,397	526,984	639,538
× *Percent Requesting Translated Notice*	0.0098%	0.0098%	0.0098%
= *Translated Notices Distributed*	40	52	63

Note: Components may not sum to parts due to rounding.

TABLE 21—TRANSLATED POST-TRANSACTION NOTICES REQUESTED

	Year 1	Year 2	Year 3
Total Post-Transaction Notices	397,749	519,606	630,585
× *Percent Requesting Translated Notice*	0.0098%	0.0098%	0.0098%
= *Translated Notices Distributed*	39	51	62

Note: Components may not sum to parts due to rounding.

The Department assumes that it would take a clerical professional two minutes to prepare and send each disclosure. The Department assumes that all of the translated notices would be sent by mail. The Department requests comment on this assumption. Additionally, the Department estimates that an automatic portability provider would incur a cost of $0.66 for postage and $0.05 for the material and printing costs of each page. The hour burden, equivalent cost, postage, and material costs are summarized in the table below.

TABLE 22—BURDEN TO PREPARE AND SEND TRANSLATED DISCLOSURES

[Automatic portability provider]

	Year 1	Year 2	Year 3
Number of Notices	173	199	222
× *Annual Hour Burden per Transaction (Hours)*	*2/60*	*2/60*	*2/60*
= Total Hours	5.8	6.6	7.4
× *Labor Cost (Clerical Professional)*	*$63.45*	*$63.45*	*$63.45*
= Equivalent Cost	$365.90	$420.89	$469.53

Note: Components may not sum to parts due to rounding.

TABLE 23—MATERIAL AND POSTAGE COST FOR THE TRANSLATED INITIAL ENROLLMENT NOTICES

	Year 1	Year 2	Year 3
Initial Enrollment Notices:			
Number of Notices Sent by Mail	94	96	97
× *Postage and Material Cost per Notice (5 Pages)*	*$0.91*	*$0.91*	*$0.91*
= Postage and Material Cost	$85.54	$87.36	$88.27

Note: Components may not sum to parts due to rounding.

TABLE 24—MATERIAL AND POSTAGE COST FOR THE TRANSLATED PRE-TRANSACTION NOTICES

	Year 1	Year 2	Year 3
Pre-Transaction Notice:			
Number of Notices Sent by Mail	40	52	63
× *Postage and Material Cost per Notice (2 Pages)*	*$0.76*	*$0.76*	*$0.76*
= Postage and Material Cost	$30.40	$39.52	$47.88

Note: Components may not sum to parts due to rounding.

TABLE 25—MATERIAL AND POSTAGE COST FOR THE TRANSLATED POST-TRANSACTION NOTICES

	Year 1	Year 2	Year 3
Post-Transaction Notice:			
Number of Notices Sent by Mail	39	51	62
× *Postage and Material Cost per Notice (2 Pages)*	*$0.76*	*$0.76*	*$0.76*
= Postage and Material Cost	$29.64	$38.76	$47.12

Note: Components may not sum to parts due to rounding.

9. Website

The proposal would require the automatic portability provider to maintain a website with three categories of disclosures: (1) a description of all the fees and compensation received, directly or indirectly, by the automatic portability provider for services provided in connection with the automatic portability transaction; (2) a list of recordkeepers for each employer-sponsored retirement plan with respect to which the automatic portability provider carries out automatic portability transactions; and (3) the number of plans and participants covered by each recordkeeper. The Department assumes that an automatic portability provider would already have such a website, readily available access to the required information, and would only incur costs associated with drafting and posting the required disclosures.

The Department estimates that a senior executive employed by the automatic portability provider would spend one hour providing a web designer the requirements for the disclosures in the first year, resulting in an hour burden of one hour with an equivalent cost of $128.[177] Additionally, the Department estimates that it would take a web designer five hours to update and test the website in the first year, resulting in an hour burden of five hours and equivalent cost of $778.[178] The Department estimates that it would take a web developer one hour in subsequent years to make any necessary revisions or updates to the disclosures, resulting in an hour burden of one hour with an equivalent cost of $156.[179]

10. Recordkeeping

An automatic portability provider would be required to maintain records sufficient to demonstrate compliance with the requirements of Code section 4975(f)(12) and this regulation. The Department expects adequate records will be automatically generated through the systems created by the automatic portability provider and thus would not create an additional burden.

The proposal would require the records to be made available to any duly authorized employee or representative of the Department of Labor or the Department of the Treasury within 30 calendar days of the date of a written request for such records. The Department estimates that providing records to the Department would take a clerical professional two hours on average to prepare and send requested records, resulting in a per request equivalent cost of $127.[180] The Department expects that such requests would occur rarely. As such, the Department estimates that one request a year would result in an average annual burden of $127.

11. Summary

The paperwork burden estimates are summarized as follows:

Type of Review: New collection.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Automatic Portability Transaction Regulations.

OMB Control Number: 1210–NEW.

Affected Public: Business or other for-profit institution.

Estimated Number of Respondents: 185,001.

Estimated Number of Annual Responses: 2,384,846.

Frequency of Response: Initially, Annually, and when engaging in exempted transaction.

Estimated Total Annual Burden Hours: 92,887.

Estimated Total Annual Burden Cost: $97,985.

H. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [181] imposes certain requirements on rules subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act or any other law.[182] Under section 603 of the RFA, agencies must submit an initial regulatory flexibility analysis (IRFA) of a proposal that is likely to have a significant economic impact on a substantial number of small entities, such as small businesses, organizations, and governmental jurisdictions. The Department's IRFA is below.

The Affected Entities of the Regulatory Impact Analysis identifies automatic portability providers, recordkeepers, and plans as entities potentially impacted by the proposal. While there may be a substantial number of small recordkeepers and plans affected by the proposal, the Department has determined that there would not be a significant impact on these entities.[183] The analysis below estimates the effect on small automatic portability providers.

1. Need for and Objectives of the Rule

Section 120 of the SECURE 2.0 Act of 2022 amended Code section 4975 to add a statutory exemption for the receipt of fees and compensation by an automatic portability provider for services provided in connection with an automatic portability transaction. This proposed rule implements the statutory prohibited transaction under Code section 4975 for automatic portability transactions.

When a plan participant intentionally or unintentionally leaves money in a former employer's defined contribution

[177] The hour burden is estimated as: 1 automatic portability provider × 1 hour = 1 hour. The equivalent cost is estimated as: 1 automatic portability provider × 1 hour × $128.11 = $128.11, rounded to $128.

[178] The hour burden is estimated as: 1 automatic portability provider × 5 hours = 5 hours. The equivalent cost is estimated as: 1 automatic portability provider × 5 hours × $155.61 = $778.05, rounded to $778.

[179] The hour burden is estimated as: 1 automatic portability provider × 1 hour = 1 hour. The equivalent cost is estimated as: 1 automatic portability provider × 1 hour × $155.61 = $155.61, rounded to $156.

[180] The hour burden is estimated as: 1 automatic portability provider × 2 hours = 2 hours. The equivalent cost is estimated as: 1 automatic portability provider × 2 hours × $63.45 = $126.90, rounded to $127.

[181] *5 U.S.C. 601 et seq.*

[182] *5 U.S.C. 601(2), 603(a);* also see *5 U.S.C. 551.*

[183] For recordkeepers, the proposal would require automatic portability providers to contractually require certain information be provided in connection with its services as an automatic portability provider. This would likely require the automatic portability provider to update contracts with plans. The Department estimates that this would require plan fiduciaries to execute the updated contract. The Department estimates that this would take a plan fiduciary 15 minutes. The Department does not consider this to be a significant impact on plans. For plans, the proposal would not require a substantial action, with respect to the requirements under PTE 2019–02.

plan, depending on plan provisions the former employer has the option to cash out balances of $5,000 or less and to force a transfer of balances between $1,001 and $5,000 to a Default IRA. This Default IRA transfer is commonly referred to as a ''force-out'' and is only implemented if the participant does not elect to have the account balance paid directly to an eligible retirement plan or to receive the balance directly. As part of the SECURE 2.0 Act, the $5,000 threshold is being raised to $7,000.[184]

Default IRAs, while intended to preserve retirement assets in conservatively managed accounts, typically yield only minimal returns for investors while often imposing considerable fees.[185] Additionally, these Default IRAs, established on behalf of participants, are more susceptible to being abandoned or forgotten while potentially exposing those with multiple accounts to unnecessary losses from duplicated fees that might otherwise be avoided were their assets consolidated into a single account. Cashouts also directly impact participants by removing their assets from tax-favored retirement accounts.[186]

Automated portability services allow plan providers to transfer assets into the plan of a participant's new employer, effectively automating roll-ins from Default IRAs established on behalf of the separated employee to consolidate assets into an active, employer-sponsored defined contribution plan.

2. Affected Small Entities

The Department anticipates an automatic portability provider would be classified as NAICS 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities. According to the size standards set by the Small Business Administration, entities with NAICS 522320 are considered small if they have average annual receipts less than $47 million.[187] According to data published by the NAICS Association, by this standard, approximately 99 percent of entities with NAICS 522320 are considered small entities.[188]

As discussed in the Regulatory Impact Analysis, the Department assumes that only one entity would rely on the proposed exemption. This entity, RCH, in service of PSN, has stated that the maximum per-transaction fee for its services is $30.[189] Further, as discussed in the Regulatory Impact Analysis, the Department estimates that there would be 60,265 additional transactions in the first year and an average of 399,341 additional transactions in years two through ten. If the average transaction fee ranged between $15 and $30, the annual additional receipts in the first year for this service would be between $0.9 and $1.8 million[190] and between $6.0 million and $12.0 million in years two through ten.[191]

The automatic portability services operations at RCH represent just one portion of the business. However, because the entity is private, the Department does not have access to its total annual receipts. While the Department estimates that the annual receipts of RCH may exceed the small entity size thresholds, the Department cannot confirm. Accordingly, the Department has conducted an analysis of the costs imposed by the proposal.

3. Impact of the Rule

As discussed in the Regulatory Impact Analysis, the Department assumes that one entity would rely on the proposed exemption. The Department is presenting the estimated costs and costs savings of this entity, RCH/PSN. RCH/PSN currently operates under an individual exemption, PTE 2019–02. The Regulatory Impact Analysis considers the costs and cost savings this proposal would impose, with respect to the requirements under PTE 2019–02.

The Department estimates that the proposal would result in a cost savings for an automatic portability provider operating under the conditions in PTE 2019–02. The table below summarizes the costs and cost savings under the proposal. For more information on these estimates, refer to the Cost section of the Regulatory Impact Analysis.

TABLE 26—PER ENTITY COSTS AND COST SAVINGS FOR AUTOMATIC PORTABILITY PROVIDERS

	Year 1	Years 2–10 (average)
Acknowledgment of Fiduciary Status	$391,434.34	.....
Policies and Procedures	1,593.40	$318.68
Independent Audit	6,034.53	5,397.17
Corrections to Audit	6,188.20	3,001.40
Website Requirements	906.16	155.61
Notice to the Secretary of Labor	15.86	.....
Initial Enrollment Notice [a]	[b] (1,426,704.81)	[b] (1,302,599.20)
Pre-Transaction Notice [a]	132,859.13	824,218.62
Post Transaction Notice [a]	855,059.22	1,580,430.41
Total	[b] (32,613.97)	1,110,922.70

Note: Components may not sum to parts due to rounding.
[a] Includes costs associated with providing disclosures in a culturally and linguistically appropriate manner.
[b] This value represents a cost savings, when compared to requirements for RCH/PSN under PTE 2019–02.

[184] *See* SECURE 2.0 Act, Sec. 304.

[185] Government Accountability Office (GAO). ''401(k) Plans: Greater Protections Needed for Forced Transfers and Inactive Accounts.'' (2014).

[186] The Code does not require a mandatory distribution of $1000 or less to be rolled into an IRA.

[187] U.S. Small Business Administration, *Table of Small Business Size Standards Matched to North American Industry Classification System Codes,* (March 17, 2023), *https://www.sba.gov/sites/sbagov/files/2023-03/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%281%29%20%281%29_0.pdf.*

[188] This estimate is based on data released by the NAICS Association. (NAICS Association, *Market Analysis Profile: NAICS Code & Annual Sales,* (2022), *https://www.naics.com/custom-market-analysis-profiles/.*)

[189] Portability Services Network, *Our Fees, https://psn1.com/learning-center/about-psn/what-are-psns-fees#:~:text=Key%20aspects%20of%20PSN's%20fee,be%20processed%20at%20no%20charge.*

[190] The lower bound estimate is calculated as 60,265 additional transactions × $15 = $903,975. The upper bound estimate is calculated as 60,265 additional transactions × $30 = $1,807,950.

[191] The lower bound estimate is calculated as 399,341 additional transactions × $15 = $5,990,115. The upper bound estimate is calculated as 399,341 additional transactions × $30 = $11,980,230.

4. Duplicate, Overlapping, or Relevant Federal Rules

The proposal is intended to align with the requirements in the individual exemption PTE 2019–02. The proposal also incorporates the statutory exemption requirements in the SECURE 2.0 Act and supplements them accordingly. While PTE 2019–02 and the statutory exemption, as supplemented by this proposal, differ slightly, the Department has worked to ensure that the requirements are complimentary. Because PTE 2019–02 and the statutory exemption provide prohibited transaction relief for the same categories of transactions, RCH/PSN will only need to rely on either the statutory or individual exemption. Therefore, it is important for the requirements of the statutory and individual exemptions to be aligned.

Please note that RCH/PSN most likely will rely on the statutory exemption, because it has an unlimited term while the class exemption is limited to a five-year term that expires on July 31, 2024. The Department expects that RCH/PSN will rely upon the statutory exemption and this proposal once it becomes effective rather than PTE 2019–02. Because PTE 2019–02 is an individual exemption granted solely to RCH and its affiliates, any other automatic portability providers that enter the market will only be able to rely upon the statutory exemption and this proposal, so there will be no duplicative requirements imposed on them.

5. Description of Alternatives Considered

This section of the IRFA analysis addresses alternatives the Department considered when developing the proposal. As stated above in this Regulatory Impact Analysis, the Department estimates that only one automatic portability provider would operate under the proposal. Therefore, the regulatory alternatives considered for small entities does not differ from those considered in the Regulatory Impact Analysis. The Department considered the following alternatives:

• *Relying Only on Sub-Regulatory Guidance*—Section 120(c) directs the Secretary of Labor to ''issue such guidance as may be necessary to carry out the purposes of the amendments made by this section, including regulations or other guidance'' no later than 12 months after the enactment of the statute. The Department considered whether its responsibilities under section 120(c) of SECURE 2.0 could be satisfied by issuing only sub-regulatory guidance.

• *Issuing More Limited Regulations*—The Department considered issuing limited regulations concerning only the portions of Code section 4975(f)(12) focused on the audit and the acknowledgement of fiduciary status, both of which called on the Department to promulgate regulations to determine compliance. In so doing, the Department could have issued sub-regulatory guidance with respect to compliance with the rest of the exemption.

• *Not Requiring an Initial Enrollment Notice*—The Department considered not including a requirement for an initial enrollment notice in the proposed regulations. The statute only requires that an automatic portability provider furnish IRA owners with a pre-transaction notice and a post-transaction notice. Additional notices were left to the discretion of the Department in connection with carrying out the purposes of the statutory exemption.

• *Not Requiring the Audit to be an Independent Audit*—The Department considered proposing an audit that could be conducted as an internal audit.

A more in-depth discussion of the regulatory alternatives and the Department's decision process is included in the Regulatory Alternatives section of the Regulatory Impact Analysis above.

I. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by state, local, and tribal governments, in the aggregate, or by the private sector.[192] For purposes of the Unfunded Mandates Reform Act, as well as Executive Order 12875, this proposal does not include any Federal mandate that the Department expects would result in such expenditures by state, local, or tribal governments, or the private sector.[193]

J. Federalism Statement

Executive Order 13132 outlines fundamental principles of federalism, and requires adherence by Federal agencies to specific criteria in the process of their formulation and implementation of policies that have ''substantial direct effects'' on the states, the relationship between the national government and states, or on the distribution of power and responsibilities among the various levels of government.[194] Federal agencies promulgating regulations that have federalism implications must consult with state and local officials and describe the extent of their consultation and the nature of the concerns of state and local officials in the preamble to the final rule.

In the Department's view, this proposal will not have federalism implications because it would not have direct effects on the states, on the relationship between the national government and the states, nor on the distribution of power and responsibilities among various levels of government. The Department welcomes input from affected states regarding this assessment.

Statutory Authority

This regulation is issued pursuant to the authority in section 505 of ERISA (Pub. L. 93–406, 88 Stat. 894; 29 U.S.C. 1135), section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 237, Public Law 117–328, 136 Stat. 4459, and under Secretary of Labor's Order No. 1–2011, 77 FR 1088 (Jan. 9, 2012).

List of Subjects in 29 CFR Part 2550

Employee benefit plans, Individual retirement accounts, Pensions, Plans.

For the reasons set forth in the preamble, the Department is proposing to amend 29 CFR part 2550 as follows:

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

■ 1. The authority citation for part 2550 is revised to read as follows:

Authority: 29 U.S.C. 1135 and Secretary of Labor's Order No. 1–2011, 77 FR 1088 (January 9, 2012). Sec. 102, Reorganization Plan No. 4 of 1978, 5 U.S.C. App. At 727 (2012). Sec. 2550.401c–1 also issued under 29 U.S.C. 1101. Sec. 2550.404a–1 also issued under sec. 657, Pub. L. 107–16, 115 Stat 38. Sec. 2550.404a–2 also issued under sec. 657 of Pub. L. 107–16, 115 Stat. 38. Sections 2550.404c–1 and 2550.404c–5 also issued under 29 U.S.C. 1104. Sec. 2550.408b–1 also issued under 29 U.S.C. 1108(b)(1). Sec. 2550.408b–19 also issued under sec. 611, Pub. L. 109–280, 120 Stat. 780, 972. Sec. 2550.412–1 also issued under 29 U.S.C. 1112. Sec. 2550.4975f–12 also issued under Pub. L. 117–328, 136 Stat. 4459.

■ 2. Add § 2550.4975f–12 to read as follows:

[192] 2 U.S.C. 1501 *et seq.* (1995).

[193] Enhancing the Intergovernmental Partnership, 58 FR 58093 (Oct. 28, 1993).

[194] Federalism, 64 FR 153 (Aug. 4, 1999).

§ 2550.4975f–12 Rules relating to automatic portability transactions.

(a) *In general and scope of exemption.* (1) Internal Revenue Code (Code) section 4975(d)(25) exempts from the excise taxes imposed by Code section 4975(a) and (b), by reason of Code sections 4975(c)(1)(D) and (E), the receipt of fees and compensation by an automatic portability provider for services provided in connection with an automatic portability transaction. Code section 4975(d)(25) further exempts from the excise taxes imposed by Code section 4975(a) and (b), by reason of Code section 4975(c)(1)(F), the receipt of a fee by an automatic portability provider from an employer-sponsored retirement plan sponsor in lieu of a fee imposed on an individual retirement plan owner. Code section 4975(f)(12) establishes conditions for automatic portability transactions to be covered by the exemption. Effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 237, transferred the authority of the Secretary of the Treasury to promulgate regulations of the type published herein to the Secretary of Labor. This section implements the statutory exemption and conditions set forth at Code section 4975(d)(25) and (f)(12).

(2) *Automatic portability transaction.* An automatic portability transaction is a transfer of assets made:

(i) From an individual retirement plan which is established on behalf of an individual and to which amounts were transferred under Code section 401(a)(31)(B)(i),

(ii) To an employer-sponsored retirement plan described in clause (iii), (iv), (v), or (vi) of Code section 402(c)(8)(B) (other than a defined benefit plan) in which such individual is an active participant, and

(iii) After such individual has been given advance notice of the transfer and has not affirmatively opted out of such transfer.

(3) *Automatic portability provider.* An automatic portability provider is a person, other than an individual, that executes transfers described in paragraph (a)(2) of this section.

(4) Code section 4975(d)(25) does not contain an exemption for other acts described in Code section 4975(c)(1)(D) and (E) (relating to transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a plan and to fiduciaries as defined in Code section 4975(e)(3) dealing with the income or assets of plans in their own interest or for their own account) that are not services provided in connection with automatic portability transactions. Services shall not be considered provided in connection with an automatic portability transaction if the services would have been provided in the absence of an automatic portability transaction or anticipation of a future automatic portability transaction. Except as described in paragraph (a)(1) of this section, Code section 4975(d)(25) does not contain an exemption for acts described in Code section 4975(c)(1)(F) (relating to fiduciaries as defined in Code section 4975(e)(3) receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan). Such acts are separate transactions not described in Code section 4975(d)(25). Code section 4975(d)(25) also does not contain an exemption from other provisions of the Code, such as section 401, or other provisions of law which may impose requirements or restrictions relating to the transactions which are exempt under section 4975(d)(25).

(b) This paragraph (b) sets forth conditions that must be satisfied in order for an automatic portability transaction to be covered by the statutory exemption in Code section 4975(d)(25).

(1) *Acknowledgment of fiduciary status.* The automatic portability provider shall acknowledge in writing that it is a fiduciary with respect to the individual retirement plan in connection with its processing of automatic portability transactions:

(i) Upon being engaged by an employer-sponsored retirement plan; and

(ii) In the notices to individuals described in paragraphs (b)(5)(iii) through (v) of this section.

(2) *Fees and compensation.* The fees and compensation received, directly or indirectly, by the automatic portability provider (including its affiliates) for services provided in connection with the automatic portability transaction (including any fees or compensation in connection with, but received before, the transaction):

(i) Do not exceed reasonable compensation, as the term is defined in 26 CFR 54.4975–6(e); and

(ii) Are fully disclosed to and approved in writing in advance of the transaction by a fiduciary of the employer-sponsored retirement plan described in paragraph (a)(2)(ii) of this section which is independent of the automatic portability provider. The information that shall be disclosed includes the information that is required to be disclosed under § 2550.408b–2(c) by a covered service provider as defined in § 2550.408b–2(c)(1)(iii)(A) (services as a fiduciary within the meaning of ERISA section 3(21)) and § 2550.408b–2(c)(1)(iii)(B) (recordkeeping services).

(iii) An automatic portability provider (including its affiliates) may not receive or pay third-party fees or compensation to any party in connection with an automatic portability transaction. This restriction on third-party compensation does not apply to a fee paid by the sponsor of an employer-sponsored retirement plan that is in lieu of a fee imposed on an individual retirement plan owner or a fee that is shared with another automatic portability provider, as long as the overall fee associated with the automatic portability transaction does not increase as compared to the fees disclosed to the plan administrator and individuals in the notices described in paragraphs (b)(5)(ii) and (iii) of this section. This restriction does not prevent an automatic portability provider (or its affiliates) from receiving fees for services provided to an individual retirement plan or employer-sponsored retirement plan that are in addition to services provided in connection with the execution of automatic portability transactions. The prohibited transaction relief provided in Code section 4975(d)(25) does not apply to fees or compensation paid by an employer-sponsored retirement plan or to fees or compensation for such additional services.

(iv) *Automatic portability provider-sponsored plan.* An automatic portability provider (including its affiliates) shall not receive any fees or compensation in connection with an automatic portability transaction involving a plan that is sponsored or maintained by the automatic portability provider or an affiliate.

(3) *Data usage and protection.* An automatic portability provider (including its affiliates) shall not market or sell to third parties participant-related data or individual retirement plan data that the automatic portability provider accesses or obtains in connection with an automatic portability transaction. An automatic portability provider shall take all necessary steps that a reasonable fiduciary would take to safeguard participant and individual retirement plan data to the extent the automatic portability provider exercises control over the data. If data is improperly accessed, the automatic portability provider shall take appropriate remedial actions that to safeguard the data based on the sensitivity of the accessed data and the nature and severity of the breach.

(4) *Open participation and limitation on exclusive engagements.* (i) The

automatic portability provider shall offer to execute automatic portability transactions on the same terms to any employer-sponsored retirement plan described in paragraph (a)(2)(ii) of this section.

(ii) The automatic portability provider shall not restrict or limit the ability of unrelated third parties to develop, market, and/or maintain a locate-and-match process or to execute automatic portability transactions separate from the automatic portability provider. The automatic portability provider also shall not restrict the ability of an employer-sponsored retirement plan, individual retirement plan provider (including custodians, trustees, and issuers), or recordkeeper to engage other automatic portability providers to execute automatic portability transactions.

(5) *Notices*—(i) *Notice to the Secretary of Labor.* Within 90 calendar days of the date that the automatic portability provider begins operating an automatic portability transaction program that is intended to rely on the prohibited transaction relief provided by Code section 4975(d)(25), the automatic portability provider shall notify the Secretary of Labor at *auto-portability@dol.gov* that it is operating as an automatic portability provider and relying on Code section 4975(d)(25), (f)(12), and these regulations. Each automatic portability provider that relies upon the exemption must report the legal name of each business entity relying upon the exemption in the email to the Secretary and any name under which the automatic portability provider may be operating. This notification needs to be reported only once unless there is a change to the legal name or operating name(s) of the automatic portability provider relying upon the exemption. The automatic portability provider shall have 90 calendar days to report a change to the legal or operating name. The automatic portability provider may notify the Secretary if it is no longer operating in reliance upon this exemption.

(ii) *Notice to plan administrator.* The automatic portability provider shall provide each plan administrator a model description of the automatic portability program, including fees and expenses related to the automatic portability program and automatic portability transactions. For any employer-sponsored plan that is subject to ERISA's summary plan description requirement, the automatic portability provider shall send a notice to each administrator of such plan that participates in an arrangement with the automatic portability provider that the administrator must fully describe the automatic portability program and disclose fees related to an automatic portability transaction in its summary plan description or summary of material modifications. The model description must be written in a manner so that it could be used by the plan administrator to fulfill summary plan description or summary of material modifications obligations, as relevant.

(iii) *Initial enrollment notice.* The automatic portability provider shall furnish each individual on whose behalf the individual retirement plan was established an initial notice within 15 calendar days of the individual retirement plan's enrollment or participation in an arrangement that includes the possibility of a future automatic portability transaction executed by the automatic portability provider. The notice shall include:

(A) A description of the automatic portability transaction, including that the automatic portability provider will send a notice at least 60 calendar days, but no more than 90 calendar days, in advance of executing an automatic portability transaction;

(B) A description of the applicable account fees that will be charged in connection with the automatic portability transaction;

(C) A clear and prominent description of the individual's right to affirmatively elect not to participate in the transaction, the other available distribution options, and the procedures to take advantage of such options;

(D) The contact information for the automatic portability provider and the individual retirement plan provider (if not the automatic portability provider), including toll-free customer service numbers; and

(E) The right to designate a beneficiary and the procedures to do so, including the appropriate party to contact if the automatic portability provider is not the provider of the individual retirement plan.

(iv) *Pre-transaction notice.* The automatic portability provider shall furnish each individual on whose behalf the individual retirement plan was established a pre-transaction notice. The notice shall be provided at least 60 calendar days, but not more than 90 calendar days, in advance of an automatic portability transaction. The notice shall include:

(A) A description of the automatic portability transaction and a complete and accurate statement of all fees which will be charged and all compensation which will be received by the automatic portability provider (including its affiliates) in connection with the transaction. The description of the automatic portability transaction shall include that the individual retirement plan assets will not be transferred for at least 60 calendar days from the date of the notice, that the individual has been matched with an account in an employer-sponsored retirement plan of a current employer, the name of the employer, and the name of the plan;

(B) A statement requesting the individual's affirmative consent to transfer the assets from the individual retirement plan to the account in the employer-sponsored retirement plan;

(C) A description of the individual's right to affirmatively elect not to participate in the transaction, the other available distribution options, the deadline by which the individual must make an election, and the procedures for doing so. The description shall indicate that if the individual does not affirmatively consent or elect not to participate by the deadline, the automatic portability provider will consider the individual to have given consent to the automatic portability transaction;

(D) The contact information for the automatic portability provider and the individual retirement plan provider (if not the automatic portability provider) including toll-free customer service numbers that the individual may contact to make an election, pursue other available distributions options, or for other information or assistance with the automatic portability program; and

(E) The right to designate a beneficiary and the procedures to do so for the individual retirement plan if it is not transferred to an employer-sponsored retirement plan in which the individual is an active participant, including the appropriate party to contact if the automatic portability provider is not the provider of the individual retirement plan.

(v) *Post-transaction notice.* Not later than 3 business days after an automatic portability transaction is completed, the automatic portability provider shall provide notice to the individual on whose behalf the individual retirement plan was established of:

(A) The actions taken by the automatic portability provider with respect to the individual retirement plan, including that the individual was matched with an account in an employer-sponsored retirement plan of the individual's current employer;

(B) All relevant information regarding the location and amount of any transferred assets which includes, but is not limited to, the name of the employer and the name of the plan;

(C) A statement of fees charged against the individual retirement plan

by the automatic portability provider or its affiliates in connection with the transfer; and

(D) A customer service telephone number at which the individual can contact the automatic portability provider.

(vi) *Accessibility of notices.* (A) The notices described in paragraphs (b)(5)(iii) through (v) of this section shall be written in a manner calculated to be understood by the average person, which for purposes of these regulations, is the average intended recipient. The disclosures must be accurate, not include inaccurate or misleading statements, and be sufficiently comprehensive to apprise the individual of their rights and obligations under the automatic portability program, must not be formatted to have the effect of misleading, misinforming or failing to inform the recipient, and be written in a culturally and linguistically appropriate manner. In fulfilling these requirements, the automatic portability provider shall exercise considered judgment and discretion by taking into account such factors as the level of comprehension and education of the typical intended recipient and the complexity of the terms of the program. Consideration of these factors will usually require the limitation or elimination of technical jargon and of long, complex sentences, the use of clarifying examples and illustrations, the use of clear cross references, and a table of contents be included.

(B) *Standards for culturally and linguistically appropriate notices.* An automatic portability provider is considered to provide relevant notices and disclosures in a ''culturally and linguistically appropriate manner'' if the automatic portability provider meets all the requirements of the paragraph (b)(5)(vi)(C) of this section with respect to the applicable non-English languages described in paragraph (b)(5)(vi)(D) of this section.

(C) *Requirements.* (*1*) The automatic portability provider must provide oral language services (such as a telephone customer assistance hotline) that include the ability to answer questions in any applicable non-English language and provide assistance with automatic portability transactions in any applicable non-English language;

(*2*) The automatic portability provider must provide, upon request, a notice or disclosure in any applicable non-English language; and

(*3*) The automatic portability provider must include in the English versions of all required notices and disclosure, a statement prominently displayed in any applicable non-English language clearly indicating how to access the language services provided by the automatic portability provider.

(D) *Applicable non-English language.* With respect to an address in any United States county to which a notice is sent, a non-English language is an applicable non-English language if ten percent or more of the population residing in the county is literate only in the same non-English language, as determined in guidance published by the Secretary of Labor.

(vii) *Ensuring participants receive notices and disclosures.* The automatic portability provider shall adopt and implement prudent policies and procedures to ensure that it obtains or has access to current and accurate census and contact data on individual participants and individuals on whose behalf an individual retirement plan is established, necessary to effectively administer the automatic portability program. An individual cannot participate in the automatic portability provider's automatic portability transaction program unless the automatic portability provider has a reasonable basis for believing the automatic portability provider has a valid address for the individual. Notices and disclosures to participants and individuals must be made using methods that satisfy the disclosure requirements in § 2520.104b–1(b) of this chapter.

(6) *Frequency of searches.* The automatic portability provider shall use a locate-and-match service to query cooperating record-keepers, on at least a monthly basis, whether the individual for whose benefit the individual retirement plan is established has an active account in an employer-sponsored retirement plan. The automatic portability provider shall take prudent steps to verify the accuracy of the individual's information (including such information as the participant's social security number, first name, last name, middle name or initial, date of birth, phone number, etc.) to ensure the match is correct. The verification steps must include ongoing participant address validation searches via automated checks of:

(i) National Change of Address records;

(ii) Two separate commercial locator databases; and

(iii) Any internal databases maintained by the automatic portability provider. If a valid address is not obtained from the automated checks, the automatic portability provider must also perform a manual internet-based search. These verification steps must be performed at least twice in the first year an account is entered into the automatic portability provider system and once a year thereafter.

(7) *Monitoring transfers into an employer-sponsored retirement plan.* The automatic portability provider shall ensure that an employer-sponsored retirement plan that accepts transfers into the plan in connection with an automatic portability transaction designates a plan official responsible for monitoring transfers into the plan due to automatic portability transactions, including ensuring the amounts received on behalf of a participant are invested properly. Amounts received are deemed to be invested properly if made in accordance with the participant's current investment election under the plan or, if no election is made or permitted, in the plan's qualified default investment alternative under § 2550.404c–5 or in another investment selected by a fiduciary with respect to such plan.

(8) *Timeliness of automatic portability transaction execution.* If the automatic portability provider identifies a match, and the affected individual does not affirmatively elect not to participate in the transaction within the timeframe indicated in the pre-transaction notice, the automatic portability provider shall, after liquidating the assets of the individual retirement plan to cash in accordance with the timeframes established in the policies and procedures adopted pursuant to paragraph (b)(9) of this section, transfer the account balance of such plan as soon as practicable to the participant's account in the employer-sponsored retirement plan.

(9) *Limitation on exercise of discretion and on policies and procedures.* The automatic portability provider shall neither have nor exercise discretion to affect the timing or amount of the transfer, other than to deduct the appropriate fees as described in paragraph (b)(2) of this section. An automatic portability provider will be deemed to satisfy this paragraph (b)(9) if it establishes, maintains, and follows written policies and procedures that set specific standards and timeframes that apply to all automatic portability transactions. The policies and procedures shall, at a minimum, address:

(i) The process to ensure that an employer-sponsored retirement plan that accepts transfers into the plan in connection with an automatic portability transaction designates a representative that will be responsible for monitoring transfers into the plan due to automatic portability transactions and investment of amounts received;

(ii) The process and timing for liquidating the assets of the individual retirement plan to cash and closing the individual retirement plan;

(iii) The process for verifying and validating that the correct fees are withdrawn from the individual retirement plan;

(iv) The process and timing for transmitting assets to employer-sponsored retirement plans;

(v) The process for verifying the assets were received by the employer-sponsored retirement plan; and

(vi) The process for sending all required notices to plan participants or individuals on whose behalf an individual retirement plan is established, in accordance with paragraph (h) of this section.

(c) *Annual audit and corrections.* (1) An automatic portability provider shall retain an independent auditor to conduct an annual audit to assist the automatic portability provider in demonstrating compliance with the automatic portability provider's policies and procedures, the requirements of Code section 4975(d)(25), (f)(12), and these regulations and identifying any instances of noncompliance. The auditor shall, at a minimum, review: the policies and procedures, a representative sample of the required disclosures, a representative sample of automatic portability transactions, and the requirements of Code section 4975(d)(25), 4975(f)(12), and these regulations. The auditor shall have appropriate technical training and proficiency with respect to ERISA Title I, the Code, and the automatic portability transactions described in these regulations to conduct the audit.

(2) *Independence of auditor.* An auditor is independent if the automatic portability provider does not have an ownership interest in or control the auditor and the auditor derives no more than two percent of its annual revenue from services provided directly or indirectly to the automatic portability provider or any of its affiliates.

(3) *Access to information.* The automatic portability provider shall grant the auditor access to its automatic portability operations and records (including, as necessary, the operations and records of its affiliates) sufficient to allow the auditor to make the determinations and findings required by these regulations.

(4) *Audit report findings and determinations.* The auditor shall prepare a written audit report signed by the auditor. The written audit report shall include the following findings and determinations:

(i) The total number of completed automatic portability transactions during the audit period;

(ii) Whether the notices in the reviewed sample met the timing and content requirements of Code section 4975(f)(12) and these regulations and were delivered in a manner reasonably designed to ensure affected individuals would receive the notices;

(iii) Whether any required notices were returned as undeliverable and what steps were taken by the automatic portability provider to address undeliverable notices;

(iv) Whether the notices in the reviewed sample were written in a manner reasonably calculated to be understood by the average intended recipient, including whether the notices include inaccurate or misleading statements;

(v) Whether the appropriate accounts in the employer-sponsored retirement plan in the reviewed sample received all the assets due as a result of the automatic portability transaction;

(vi) A summary of the fees individuals were charged by the automatic portability provider (and any affiliates) for services provided in connection with automatic portability transactions, including whether those fees increased since the last report;

(vii) Whether the fees and compensation received by the automatic portability provider (including its affiliates) in connection with the automatic portability transactions are consistent with the fees authorized by appropriate plan fiduciaries and did not exceed reasonable compensation, as described in paragraph (b)(2)(i) of this section;

(viii) Whether all requirements of Code section 4975(f)(12) and these regulations were satisfied with respect to:

(A) The policies and procedures; and

(B) The transactions and disclosures that were reviewed;

(ix) A summary of compliance issues reported to or discovered by the auditor, the auditor's recommendations, and the extent to which the automatic portability provider has addressed or is addressing the issues pursuant to the correction procedures in paragraph (c)(9) of this section;

(x) Any other recommendations from the auditor to improve the policies and procedures and overall execution of automatic portability transactions to ensure compliance with the requirements of Code section 4975(f)(12) and these regulations; and

(xi) A description of the auditor's methodology and procedures in performing the audit.

(5) *Additional information to be included in the audit report.* The written audit report shall also include:

(i) The number of mandatory distributions into individual retirement plans described in paragraph (a)(2)(i) of this section for which the automatic portability provider is conducting searches as required by paragraph (b)(6) of this section; and

(ii) The number of individual retirement plans described in paragraph (a)(2)(i) of this section:

(A) Which have been transferred to designated beneficiaries;

(B) For which the automatic portability provider is searching for next of kin due to the death of an account holder without a designated beneficiary; and

(C) That were reduced to a zero balance while in the automatic portability provider's custody.

(6) *Records not in possession of the automatic portability provider.* If the automatic portability provider does not have access to the records or information to be included in the audit report, the automatic portability provider, as a condition of its services, shall require that the appropriate information is provided to the automatic portability provider.

(7) *Timing of the audit report and submission to the Secretary of Labor.* The written audit report shall be completed within 180 calendar days following the annual period to which the audit relates. The automatic portability provider shall submit the written audit report to the Secretary of Labor at *auto-portabilityaudit@dol.gov* within 30 calendar days of completion.

(8) *Certification of audit review and addressing compliance issues.* The automatic portability provider shall include a certification filed with the written audit report, under penalty of perjury, that the automatic portability provider reviewed the audit report. The automatic portability provider shall also certify that it has addressed, corrected, or remedied any noncompliance or inadequacy in its compliance or has an appropriate written plan to address any such issues identified in the audit report.

(9)(i) *Correction procedures.* The automatic portability provider shall establish procedures for the correction of failures to comply with Code section 4975(f)(12) and these regulations. The procedures shall, at a minimum, require the automatic portability provider to notify the auditor during the applicable audit cycle of any correction(s) the automatic portability provider made on its own. The automatic portability provider may engage in corrections on

its own, without the auditor's input and without losing relief under Code section 4975(d)(25), if:

(A) Either the violation did not result in losses to the individual retirement plan or the automatic portability provider made the individual retirement plan whole for any resulting losses;

(B) The automatic portability provider corrects the violation and documents the correction in writing within 30 calendar days of correction;

(C) The correction occurs no later than 90 calendar days after the automatic portability provider learned of the violation or reasonably should have learned of the violation; and

(D) All instances of noncompliance and accompanying corrections are reported in writing to the auditor.

(ii) *Auditor recommendations.* If the auditor determines the automatic portability provider was not in compliance with any provision of Code section 4975(f)(12) or these regulations during the audit period, the auditor shall identify the instances of noncompliance in the audit report along with a description of corrective actions taken by the automatic portability provider and any recommended additional corrections. An automatic portability provider will not be treated as having failed to comply with any provision of Code section 4975(f)(12) or these regulations, provided it corrects any instance of noncompliance identified by the auditor as soon as reasonably practicable.

(10) *Additional corrective actions.* The Secretary of Labor may require the automatic portability provider to submit to supplemental audits and corrective actions, including a temporary prohibition from relying on the exemption if the automatic portability provider or an affiliate is found to be:

(i)(A) Engaging in a systematic pattern or practice of violating any provision of Code section 4975(f)(12) or this regulation;

(B) Intentionally violating any provision of Code section 4975(f)(12) or this regulation; or

(C) Providing materially misleading information to the Secretary of Labor, Secretary of the Treasury, or the auditor in connection with automatic portability transactions; or

(ii) The subject of a foreign or domestic criminal conviction:

(A) Involving or arising out of the conduct of the automatic portability program or any automatic portability transaction; or

(B) For any felony involving larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, misappropriation of funds or securities, or conspiracy to commit any such crimes or a crime in which any of the foregoing crimes is an element.

(d) *Website.* (1) The automatic portability provider shall maintain a website which displays:

(i) A description of all the fees and compensation received, directly or indirectly, by the automatic portability provider for services provided in connection with the automatic portability transaction;

(ii) A list of recordkeepers for each employer-sponsored retirement plan with respect to which the automatic portability provider carries out automatic portability transactions; and

(iii) The number of plans and participants covered by each recordkeeper.

(2) The website is not required to be limited to the information described in paragraphs (d)(1)(i) through (iii) of this section, and may include other information, for example, about the automatic portability provider, the automatic portability program, or other services provided to employer-sponsored retirement plans or individual retirement plans, but the automatic portability provider must ensure that the information described in paragraphs (d)(1)(i) and (ii) of this section is displayed in a way that clearly sets forth the automatic portability transaction fees and compensation separately from other fees and compensation.

(e) *Limitation on exculpatory provisions.* The automatic portability provider shall not include exculpatory provisions in its contracts or communications with individuals described in paragraph (a)(2)(i) of this section disclaiming or limiting the automatic portability provider's liability in the event the automatic portability provider causes an improper transfer of assets in connection with an automatic portability transaction. This limitation does not prohibit disclaimers for:

(1) Liability caused by an error, a misrepresentation, or misconduct of a party independent of the automatic portability provider and its affiliates, or

(2) Damages arising from acts outside the control of the automatic portability provider.

(f) *Record retention requirements.* (1)(i) An automatic portability provider shall, for not less than 6 years after the automatic portability transaction has occurred, maintain records sufficient to demonstrate compliance with the requirements of Code section 4975(f)(12) and this regulation.

(ii) No prohibited transaction will be considered to have occurred solely on the basis of the unavailability of such records if they are lost or destroyed due to circumstances beyond the control of the automatic portability provider before the end of the six-year period. An automatic portability provider's failure to maintain the records necessary to determine whether the conditions of Code section 4975(f)(12) and this regulation have been met will result in the loss of the relief provided by Code section 4975(d)(25) and this regulation only for the transaction or transactions for which such records are missing or have not been maintained.

(2) The records maintained to demonstrate compliance with the requirements of Code section 4975(f)(12) and this regulation shall be made available to any duly authorized employee or representative of the Department of Labor or the Department of the Treasury within 30 calendar days of the date of a written request for such records by the Department of Labor or the Department of the Treasury.

(g) *Definitions.* (1) A person or entity is an *affiliate* if, directly or indirectly (through one or more intermediaries) it controls, is controlled by, or is under common control with such person or entity; or is an officer, director, or employee of, or partner in, such person or entity. Unless otherwise specified, an *affiliate* refers to an affiliate of the automatic portability provider.

(2) The term *control* means the power to exercise a controlling influence over the management or policies of an entity or person other than an individual.

(3) The term *individual retirement plan* means:

(A) An individual retirement account described in Code section 408(a); and

(B) An individual retirement annuity described in Code section 408(b).

Signed at Washington, DC, this 16th day of January 2024.

Lisa M. Gomez,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2024–01208 Filed 1–26–24; 8:45 am]

BILLING CODE 4510–29–P

FEDERAL REGISTER

Vol. 89 Monday,

No. 19 January 29, 2024

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 217

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Naval Magazine Indian Island Ammunition Wharf Maintenance and Pile Replacement Project, Puget Sound, Washington; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 240122–0021]

RIN 0648–BL79

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Naval Magazine Indian Island Ammunition Wharf Maintenance and Pile Replacement Project, Puget Sound, Washington

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

ACTION: Final rule.

SUMMARY: NMFS, upon request from the U.S. Navy (Navy), issues these regulations pursuant to the Marine Mammal Protection Act (MMPA) to govern the taking of marine mammals during the maintenance and pile replacement construction activities at the Ammunition Wharf at Naval Magazine (NAVMAG) Indian Island in Puget Sound, Washington, over the course of 5 years (2024 to 2029). These regulations, which allow for the issuance of Letters of Authorization (LOA) for the incidental take of marine mammals during the described activities and timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species and their habitat, and establish requirements pertaining to the monitoring and reporting of such taking.

DATES: Effective October 1, 2024, until September 30, 2029.

ADDRESSES: A copy of the Navy's application, NMFS' final rule, and other supporting documents may be obtained online at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-taking-marine-mammals-incidental-naval-magazine-indian.* In case of problems accessing these documents, please use the contact listed here (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, *ITP.pauline@noaa.gov,* (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Regulatory Action

We received an application from the Navy requesting 5-year regulations and authorization to incidentally take multiple species of marine mammals. This rule establishes a framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take by Level A and Level B harassment of marine mammals incidental to the Navy's maintenance and pile replacement construction activities at the Ammunition Wharf at NAVMAG Indian Island in Puget Sound, Washington. Please see Background below for definitions of harassment.

Legal Authority for the Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region for up to 5 years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the ''least practicable adverse impact'' on the affected species or stocks and their habitat (see the discussion below in the Mitigation section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 217, subpart I provide the legal basis for issuing this rule containing 5-year regulations, and for any subsequent LOAs. As directed by this legal authority, this rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions

The following is a summary of the major provisions of this final rule regarding Navy construction activities. These provisions include, but are not limited to:

- Monitoring of the construction areas to detect the presence of marine mammals before beginning construction activities;
- Shutdown of construction activities under certain circumstances to avoid injury of marine mammals;
- Soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power; and
- Use of bubble curtains to attenuate sound levels when impact driving steel piles.

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

In May 2021, NMFS received an application from the Navy requesting authorization to take small numbers of eight species of marine mammals incidental to construction activities at the Ammunition Wharf at NAVMAG Indian Island. The Navy requested regulations that would establish a process for authorizing such take via an LOA. NMFS reviewed the Navy's application, and sent initial questions regarding the application to the Navy on October 5, 2021. The Navy addressed the questions and submitted a revised LOA application on March 24, 2022. After additional questions were sent by NMFS, the Navy submitted another revised application on May 13, 2022, and the revised application was deemed adequate and complete on June 9, 2022. The application was published for public review and comment on August 4, 2022 (87 FR 47722). Following publication of the application, the Navy delayed the project start date by 1 year. We published a notice of the proposed rulemaking in the **Federal Register** on October 30, 2023 (88 FR 74113). There

are no changes from the proposed to the final rulemaking.

The regulations will be valid for 5 years, from October 1, 2024, until September 30, 2029, and allow NMFS to authorize the Navy to take eight species of marine mammals by Level B harassment and, additionally, one of these species by Level A harassment, incidental to construction activities related to the maintenance and pile replacement project at the Ammunition Wharf at NAVMAG Indian Island in Puget Sound, Washington. Neither the Navy nor NMFS expect serious injury or mortality to result from this activity.

Description of Activity

Overview

The Navy plans to replace defective structural concrete and fender piles as well as conduct maintenance and repair activities on the Ammunition Wharf at NAVMAG Indian Island. Maintaining this wharf structure is vital to sustaining the Navy's mission and ensuring readiness. The Navy plans to replace up to 118 structural concrete piles or fender piles, conduct maintenance, and engage in repair activities over a 7-year period on the Ammunition Wharf. However, the LOA may only be valid for 5 years. The Navy plans to conduct necessary work, including impact and vibratory pile driving, to replace and maintain the wharf structure. Under the 5-year rule, up to 110 structurally unsound structural piles or fender piles will be replaced. Structural concrete piles will be replaced with 24-inch concrete piles and old fender piles will be replaced with 14-inch steel H piles or 18.75-inch composite piles. Up to eight steel piles may also be installed in addition to the structural concrete piles if necessary. The 2 years following the expiration of the rule will consist of removal and installation of concrete piles, and maintenance and repair work. The Navy will request incidental take authorizations as necessary for the final 2 years of work.

Dates and Duration

The regulations and LOA will be valid for a period of 5 years from October 1, 2024, until September 30, 2029. All pile driving will be conducted during the prescribed in-water work window of October 1 to January 15 to avoid conducting activities when juvenile salmonids are most likely to be present. A conservative estimate of annual pile driving days over the duration of the 5-year LOA is based on the assumption that pile driving rates will be relatively slow and will take approximately 24 days per year with up to 22 concrete piles or fender piles and up to 2 steel piles installed per year. Conservatively, one concrete pile will be installed per day using jetting followed by proofing with an impact hammer. There may be extra days for additional proofing or weather/equipment delays. Actual daily production rates may be higher (often two piles are installed in a day), resulting in fewer actual pile driving days.

Specific Geographic Region

NAVMAG Indian Island is located near Port Hadlock in Jefferson County, Washington, southeast of Port Townsend, at the northeast corner of the Olympic Peninsula (figure 1). The island is approximately 8 kilometers (km) long and 2 km wide, and comprises approximately 11 km square (km^2). NAVMAG Indian Island is located between Port Townsend Bay and Kilisut Harbor. The Federal Government owns the island and provides an easement on a small portion of the southern extent of the island to Washington State Department of Transportation for access to Marrowstone Island along State Route 116. NAVMAG Indian Island is the West Coast ammunition ordnance storage center supporting the U.S. Navy Pacific Fleet.

NAVMAG Indian Island occupies approximately 19 km of shoreline within Port Townsend Bay. There are two marine structures located at NAVMAG Indian Island, the Ammunition Wharf and the Small Craft Pier, but only the Ammunition Wharf activities are addressed in this rule. Its primary mission is to load, offload, and provide storage and logistics management for ordnance used on Navy vessels.

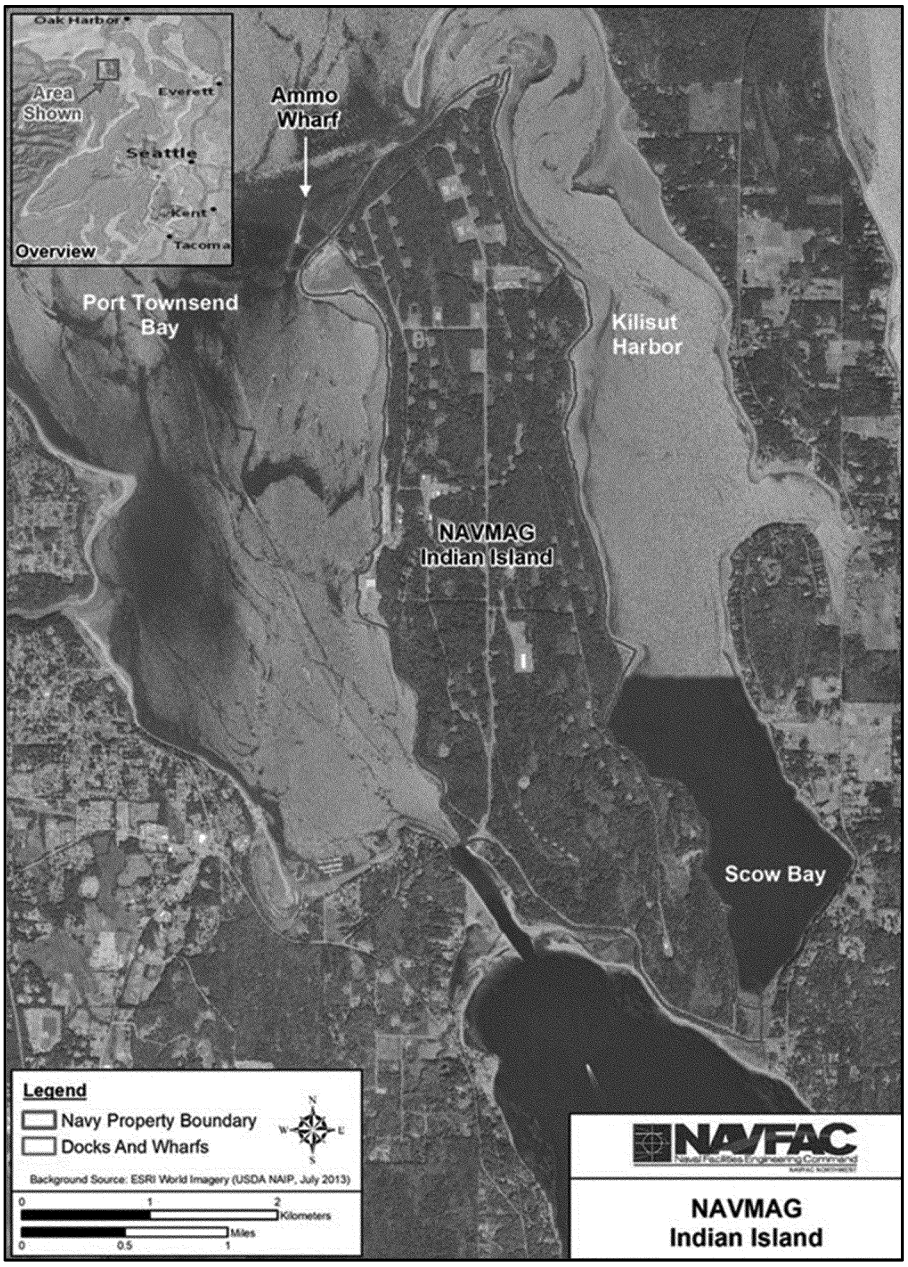

Figure 1 -- Location of Ammunition Wharf on Naval Magazine Indian Island

Detailed Description of the Specified Activity

NAVMAG Indian Island is the West Coast ammunition ordnance storage center supporting the U.S. Navy Pacific Fleet. Its primary mission is to load, offload, and provide storage and logistics management for ordnance used on Navy vessels. Construction of the Ammunition Wharf was completed in 1979, and there are a total of 1,783 piles in the Ammunition Wharf: 1,391 structural piles, 306 fender piles and 86 Operations Building piles.

The Ammunition Wharf was originally constructed using precast concrete piles. As a result of the steam curing process used at that time, an unknown quantity of piling is susceptible to a potentially catastrophic condition called Delayed Ettringite Formation (DEF). DEF is a result of high early temperatures in the concrete, which prevents the normal formation of ettringite. DEF occurs rapidly and without warning.

The Navy schedules inspections on waterfront facilities that usually occur every 3 years, but due to DEF at the Ammunition Wharf, inspections for that structure occur every two years. Based on the most recent inspection in 2021, there are 161 piles (158 under Ammunition Pier and three under the Operations Building at Ammunition Wharf) with some appreciable level of DEF damage (most or all of those piles will be replaced). More piles with DEF damage may be detected and therefore may need to be replaced over the duration of the LOA.

Table 1 shows the details of the construction activities which are described below in greater detail.

TABLE 1—PROJECT COMPONENTS FOR PILE REPLACEMENT FOR THE AMMUNITION WHARF

Wharf structure (in-water construction)	Construction details
Total Piles	Up to 118 piles installed over 5 years (including up to 8 steel piles, with the remainder concrete).
Quantity of concrete piles (24-inch).	Up to 22 per year over 5 years.
Quantity of permanent steel piles (36-inch).	Up to two per year (Maximum of eight) over 5 years (Currently no steel pile installation is planned, installation would depend on future pile inspections).
Pile Removal Method.	Cutting.
Pile Installation Method.	Jetting and impact driving of concrete piles; Vibratory and impact driving of steel piles. No simultaneous pile driving will occur.
Quantity of piles above –30 feet MLLW.	All.
Maximum number of piles driven per day (approximately).	Two concrete piles per day. One steel pile per day.
Total duration of impact pile driving.	No more than 45 minutes per day (mean = 10 minutes for concrete piles; 15 minutes for steel piles).
Maximum duration of vibratory pile driving.	No more than 30 minutes (mean = 10 minutes per steel pile).
Marine Construction Duration (including in-water restrictions).	3.5 months per year (In water work window: October 1 through January 15).

Removal of Existing Piles

After demolition of the deck portions of the wharf located above the waterline, three methods of pile removal (cutting/chipping, clamshell removal, and direct pull) may be used. However, hydraulic cutting will be the primary method of pile removal due to working under the wharf and the DEF damage to the piles. In some cases, piles may be cut at or below the mudline, with the below-mudline portion of the pile left in place. None of these pile removal activities are anticipated to result in take of marine mammals; therefore, they are not discussed further beyond the brief elaboration on jetting and pile cutting provided below.

Pile Installation

Three methods of pile installation for concrete and steel piles will be used (vibratory, jetting, and impact) depending on the type of pile and site conditions. Only one pile will be installed at a time; no simultaneous pile driving will occur. These methods are described below.

The primary methods of concrete pile installation will be water jetting to within 3 meters (m) of final depth and then impact pile driving to set or proof the final 3 m. Water jetting aids the penetration of a pile into a dense sand or sandy gravel stratum. Water jetting utilizes a carefully directed and pressurized flow of water at the pile tip, which disturbs a ring of soils directly beneath it. The jetting technique liquefies the soils at the pile tip during pile placement, reducing the friction and interlocking between adjacent sub grade soil particles around the water jet. For load-bearing structures, an impact hammer is typically required to strike a pile a number of times to ensure it has met the load-bearing specifications; this is referred to as ''proofing.'' Load-bearing piles installed with water jetting will still need to be proofed with an impact pile driver.

A vibratory hammer will be used to install the structural steel piles and fender piles. The primary method of pile installation for steel piles will be vibratory to within 3 m of final depth and then impact pile driving to set or proof the final 3 m. The vibratory pile driver method is a technique that may be used in pile installation where the substrate allows. Use of this technique will be limited in very hard substrates. This process begins by placing a choker cable around a pile and lifting it into vertical position with a crane. The pile is then lowered into position and set in place at the mudline. The pile is held steady while the vibratory driver installs the pile to the required tip elevation. In some substrates, a vibratory driver may be unable to advance a pile until it reaches the required depth. In these cases, an impact hammer will be used to advance the pile to the required depth.

Impact hammers will be used to proof concrete piles that have been jetted to depth or steel piles that have been driven using the vibratory method. Proofing involves impact pile driving to determine if the pile has been driven to the proper load-bearing specifications within the substrate. Proofing of concrete piles at the Ammunition Wharf in 2015 and 2016 required 200 to 600 strikes per pile to complete (Navy, 2016).

Impact hammers have a heavy piston that moves up and down striking the top of the pile and driving the pile into the substrate from the downward force of the hammer. Impact hammer pile proofing can typically take a minute or less to 30 minutes depending on pile type, pile size, and conditions (*i.e.,* bedrock, loose soils, *etc.*) to reach the required tip elevation.

The Navy states that piles will be advanced to the extent practicable with a vibratory driver and only impact driven when required for proofing or when a pile cannot be advanced with a vibratory driver due to hard substrate conditions.

Existing piles that are structurally sound may require additional repair activities. Such activities could include wetwell repair; recoating of piles and mooring fittings; installation or replacement of passive cathode protection systems; repair and replacement of pile caps; concrete repair; mooring foundation and substructure repair; replacement of components (*e.g.,* hand rails, safety ladders, light poles); and rewrapping or replacement of steel cable straps on dolphins. These repairs are described in greater detail in the Navy's application but will not result in the take of marine mammals and are not discussed further.

Operation of the following equipment types is not reasonably expected to result in take of marine mammals and will not be discussed further beyond the brief summaries provided below:

- Jetting produces much lower sound levels (approximately 147.5 decibel (dB) Root Mean Square (RMS); NAVFAC SW, 2020) than vibratory pile driving 166 dB RMS (Navy, 2015). The sounds produced by jetting are of similar frequencies to the sounds produced by vessels, and are anticipated to diminish to background noise levels (or be masked by background noise levels) in Port Townsend Bay.
- Hydraulic cutting will be used be used to assist with removal of piles. Similar to jetting, the sounds produced by cutting are of similar frequencies to the sounds produced by vessels (NAVFAC SW, 2020), and are anticipated to diminish to background noise levels (or be masked by background noise levels) in Port Townsend Bay relatively close to the Ammunition Wharf. Cutting of 24-inch concrete piles also produces much lower sound levels (approximately 141.4 dB RMS; (NAVFAC SW, 2020)) than vibratory pile driving 166 dB RMS (Navy, 2015).

Mitigation, monitoring, and reporting measures are described in detail later in

this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of NMFS' proposed rulemaking to the Navy was published in the **Federal Register** on October 30, 2023 (88 FR 74113). That proposed rule described, in detail, the Navy's activities, the marine mammal species that may be affected by the activities, and the anticipated effects on marine mammals. In that proposed rule, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed rulemaking, and requested that interested persons submit relevant information, suggestions, and comments. This proposed rule was available for a 30-day public comment period.

NMFS received three letters from private citizens during the public comment period. These comments were outside the scope of this rule. There are no changes from the proposed to the final rulemaking as a result of these comments.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

Table 2 lists all species or stocks that could occur during this activity, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is expected to occur, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All stocks managed under the MMPA in this region are assessed in NMFS' U.S. Pacific Marine Mammal Stock Assessment Report. All values presented in table 2 are the most recent available at the time of publication and are available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.*

TABLE 2—MARINE MAMMAL SPECIES [4] LIKELY TO OCCUR NEAR THE PROJECT AREA THAT MAY BE TAKEN BY THE NAVY'S ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Artiodactyla—Cetacea—Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray Whale	*(Eschrichtius robustus)*	Eastern N Pacific	-,-, N	26,960 (0.05, 25,849, 2016)	801	131
Family Balaenopteridae (rorquals):						
Humpback Whale	*Megaptera novaeangliae*	Central America/Southern Mexico—California-Oregon-Washington.	E, D, Y	1,496 (0.171, 1,284, 2021)	3.5	14.9
		Mainland Mexico—California-Oregon-Washington.	T, D, Y	3,477 (0.101, 3,185, 2018)	43	22
		Hawaii	-, -, N	11,278 (0.56, 7,265, 2020)	127	27.09
Minke Whale	*Balaenoptera acutorostrata.*	CA/OR/WA	-, -, N	915 (0.792, 509, 2018)	4.1	≥0.59
Odontoceti (toothed whales, dolphins, and porpoises)						
Family Phocoenidae (porpoises):						
Dall's Porpoise	*Phocoenoides dalli*	CA/OR/WA	-, -, N	16,498 (0.61, 10,286, 2019)	99	≥0.66
Harbor Porpoise	*Phocoena phocoena*	Washington Inland Waters	-, -, N	11,233 (0.37, 8,308, 2015)	66	≥7.2
Family Delphinidae:						
Killer Whale	*Orcinus orca*	West Coast Transient	-, -, N	349 (N/A, 349, 2018)	3.5	0.4
		Eastern North Pacific Southern Resident.	E, D, Y	74 (N/A, 74, 2021)	0.13	≥0.4
Order Carnivora—Pinnipedia						
Family Otariidae (eared seals and sea lions):						
CA Sea Lion	*Zalophus californianus*	U.S.	-, -, N	257,606 (N/A, 233,515, 2014)	14011	>320
Steller Sea Lion	*Eumetopias jubatus*	Eastern	-, -, N	43,201 (N/A, 43,201, 2017)	2,592	112
Family Phocidae (earless seals):						

TABLE 2—MARINE MAMMAL SPECIES [4] LIKELY TO OCCUR NEAR THE PROJECT AREA THAT MAY BE TAKEN BY THE NAVY'S ACTIVITIES—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Harbor Seal	*Phoca vitulina*	Washington Northern Inland Waters.	-, -, N	11,036 [5] (UNK, UNK, 1999)	UND	9.8
Northern Elephant Seal	*Mirounga angustirostris*	CA Breeding	-, -, N	187,386 (NA, 85,369, 2013)	5122	13.7

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (*https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/;* Committee on Taxonomy (2022)).

[5] The abundance estimate for this stock is greater than 8 years old and is therefore not considered current. PBR is considered undetermined for this stock, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates, as these represent the best available information for use in this document.

As indicated above, all 10 species (with 13 managed stocks) in table 2 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. However, no take is authorized for killer whales and humpback whales for the reasons provided in the **Federal Register** notice for the proposed rule (88 FR 74113, October 30, 2023). No take of these species is anticipated or will be authorized by NMFS and we do not discuss them further.

A detailed description of the species likely to be affected by the Navy's construction activities, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed rule (88 FR 74113, October 30, 2023). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to the NMFS website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS (NMFS, 2018)

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, Cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al,.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from the Navy's construction activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the project area. The notice of the proposed rulemaking (88 FR 74113, October 30, 2023) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from the Navy's construction activities on marine mammals and their habitat. That information and analysis is referenced in this final rule and is not repeated here; please refer to the notice of the proposed rulemaking (88 FR 74113, October 30, 2023).

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes that may be authorized under this final rule, which will inform both NMFS' consideration of ''small numbers,'' and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes will be primarily by Level B harassment, as use of the acoustic sources (*i.e.,* vibratory and impact pile driving equipment) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for harbor seals (phocids) because these animals are known to occur in close proximity to the pile driving locations. Auditory injury is unlikely to occur for other hearing groups or species. The required mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no serious injury or mortality is anticipated or authorized for this activity. Below, we describe how the authorized take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the estimated take numbers.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.,* bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.,* Southall *et al.,* 2007, 2021; Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS sound pressure level (SPL)) of 120 dB (referenced to 1 micropascal (re 1 µPa)) for continuous (*e.g.,* vibratory pile-driving, drilling) and above RMS SPL 160 dB re 1 µPa for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

The Navy's planned activity includes the use of continuous (vibratory hammer source type) and impulsive (impact hammer) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re 1 µPa are applicable.

Level A harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The Navy's planned activity includes the use of impulsive (impact hammer) and non-impulsive (vibratory hammer) sources.

These thresholds are provided in the table 4 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing Group	PTS Onset Acoustic Thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB.	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB.	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT—Continued

Hearing Group	PTS Onset Acoustic Thresholds * (received level)	
	Impulsive	Non-impulsive
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$*:* 232 dB; $L_{E,OW,24h}$*:* 203 dB	*Cell 10:* $L_{E,OW,24h}$*:* 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 µPa, and cumulative sound exposure level (L_E) has a reference value of 1µPa²s. In this table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss (TL) coefficient.

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and TL coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the project. Marine mammals are expected to be affected by sound generated by the primary components of the project (*i.e.,* impact and vibratory pile driving).

Data from prior pile driving projects at the Naval Base Kitsap Bangor and Bremerton waterfronts were reviewed in the analysis. The representative sound pressure levels used in the analysis are presented in table 5.

For vibratory pile driving distances to the PTS thresholds, the TL model described above incorporated the auditory weighting functions for each hearing group using a single frequency as described in the NMFS Spreadsheet (NMFS, 2018). For impact pile driving distances to the PTS thresholds for 36-inch steel pile and 24-inch concrete pile, the TL model described above incorporated frequency weighting adjustments by applying the auditory weighting function over the entire 1-second (sound exposure level) SEL spectral data sets from impact pile driving. If a source level for a particular pile size was not available, the next highest source level was used to produce a conservative estimate of areas above threshold values.

In order to calculate distances to the Level A harassment and Level B harassment thresholds for the methods and piles being used in this project, the Navy used acoustic monitoring data from various similar locations to develop source levels for the different pile types, sizes, and methods planned for use (table 5).

TABLE 5—SOURCE LEVELS FOR REMOVAL AND INSTALLATION ACTIVITIES

	Pile Diameter (inches)	RMS [1] (dB re 1 µPa)	Peak [1] (dB re 1 µPa)	SEL [2] (dB re 1 µPa² sec)
Impact Installation:				
Concrete	24	174	189	167
Steel Pipe [2]	36	192	211	184
Vibratory Removal:				
Steel Fender	14	150	N/A	N/A
Vibratory Installation:				
Steel Fender	14	150	N/A	N/A
Composite Fender	18.75	150	N/A	N/A
Steel pipe	36	167	N/A	N/A

Source: Navy, 2015; Navy, 2017, 2018, NAVFAC SW, 2020; WDOT, 2017.

Key: N/A = not applicable.

[1] Sound pressure levels are presented for a distance of 10 m from the pile. RMS and Peak levels are relative to 1 µPa and cumulative SEL levels are relative to 1 µPa2 sec.

[2] Values modeled for impact driving 36-inch steel piles will be reduced by 8 dB for noise exposure modeling to account for attenuation from a bubble curtain.

A bubble curtain will be used to minimize the noise generated by impact driving of steel pipe piles. Note that impact pile driving of steel piles will only occur if it is necessary to install the 36-inch steel piles and none are currently planned to be installed. If steel piles became necessary then a maximum of 2 piles will be installed within the 5-year effective period of the LOA. The bubble curtain is expected to attenuate impact pile driving sound levels an average of 8 dB based on past performance during similar Navy projects in Puget Sound (Navy, 2015); therefore, 8 dB was subtracted from values in table 5 prior to modeling the behavioral and PTS thresholds for impact pile driving steel pipe piles. For the cumulative SEL PTS thresholds, auditory weighting functions were applied to the attenuated 1-second SEL spectra for steel pipe piles.

Level B Harassment Zones

TL is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current,

source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

TL = B * Log10 (R1/R2),

where

TL = transmission loss in dB,

B = transmission loss coefficient (for practical spreading equals 15),

R1 = the distance of the modeled SPL from the driven pile, and

R2 = the distance from the driven pile of the initial measurement.

The recommended TL coefficient for most nearshore environments is the practical spreading value of 15. This value results in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions, which is the most appropriate assumption for the Navy's activities. The Level B harassment zones and areas for the Navy's activities are shown in table 6.

TABLE 6—CALCULATED RADIAL DISTANCE(S) TO UNDERWATER MARINE MAMMAL VIBRATORY PILE DRIVING NOISE THRESHOLDS AND AREAS ENCOMPASSED WITHIN THRESHOLD DISTANCE

Type	Behavioral disturbance—Level B harassment (120 dB RMS)	
	Radial distance to threshold	Area encompassed by threshold
14-inch steel H fender pile (vibratory)	1,000 m	1.8 km^2.
18.75-in composite fender pile (vibratory)	1,000 m	1.8 km^2.
36-inch steel (vibratory)	13.6 km	54 km^2.

Level A Harassment Zones

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as impact and vibratory driving, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur PTS.

The isopleths generated by the User Spreadsheet used the same TL coefficient as the Level B harassment zone calculations (*i.e.,* the practical spreading value of 15). Inputs used in the User Spreadsheet (*e.g.,* number of piles per day, duration and/or strikes per pile) are presented in table 7. The maximum RMS SPL/SEL SPL and resulting isopleths are reported below in table 8 and table 9. The maximum RMS SPL value was used to calculate Level A harassment isopleths for vibratory pile driving while the single strike SEL SPL value was used to calculate Level A harassment isopleths for impact pile driving activities. Note that Peak PTS thresholds were smaller for all pile sizes and hearing groups compared to SEL SPL values.

TABLE 7—PARAMETERS OF PILE DRIVING ACTIVITY USED IN USER SPREADSHEET

	24-Inch concrete	36-Inch steel	Fender pile	Removal or installation of steel 14-inch steel or 18.75-inch composites	36-Inch steel
Type of installation/removal	Impact	Impact	Vibratory	Vibratory	Vibratory.
Source Level	167 SEL/189 PK	184 SEL/211 PK	144 RMS	150 RMS	192 RMS.
Weighting Factor Adjustment (kHz)	2	2	2.5	2.5	2.5.
(a) Number of strikes/pile	1,000	500.			
(a) Activity Duration (min) within 24-h period			10	10	45.
Propagation (xLogR)	15	15	15	15	15.
Piles per day	2	1	2	2	1.
Distance of source level measurement (meters)	10	10	10	10	10.

TABLE 8—CALCULATED RADIAL DISTANCE(S) TO IMPACT PILE DRIVING NOISE THRESHOLDS FOR LEVEL A AND LEVEL B HARASSMENT AND ASSOCIATED AREAS [1]

	Level A harassment pinnipeds		Level A harassment cetaceans			Behavioral disturbance Level B (160 dB RMS)	
	Harbor seal (m)	Sea lion (m)	LF (m)	MF (m)	HF (m)	Radial distance to threshold (m)	Area encompassed by threshold (km^2)
24-inch concrete	29	2	54	2	64	86	0.02

TABLE 8—CALCULATED RADIAL DISTANCE(S) TO IMPACT PILE DRIVING NOISE THRESHOLDS FOR LEVEL A AND LEVEL B HARASSMENT AND ASSOCIATED AREAS [1]—Continued

	Level A harassment pinnipeds		Level A harassment cetaceans			Behavioral disturbance Level B (160 dB RMS)	
	Harbor seal (m)	Sea lion (m)	LF (m)	MF (m)	HF (m)	Radial distance to threshold (m)	Area encompassed by threshold (km^2)
36-inch steel	182	13	243	8	256	398	0.5

[1] Calculations based on SEL_{CUM} threshold criteria shown in Table 4 and source levels shown in Table 5.

TABLE 9—CALCULATED RADIAL DISTANCE(S) TO VIBRATORY PILE DRIVING NOISE THRESHOLDS FOR LEVEL A AND LEVEL B HARASSMENT AND ASSOCIATED AREAS [1]

	Level A harassment pinnipeds		Level A harassment cetaceans			Behavioral disturbance Level B (120 dB RMS)	
	Phocids (m)	Otariids (m)	LF (m)	MF (m)	HF (m)	Radial distance to threshold	Area encompassed by threshold (km^2)
14-inch steel H fender pile (vibratory)	<1	<1	<1	<1	<1	1,000 m	1.8
18.75-in composite fender pile (vibratory	<1	<1	<1	<1	<1	1,000 m	1.8
36-inch steel (Vibratory)	4	<1	7	<1	11	13.6 km	54

[1] Vibratory pile driving would only occur if it is necessary to install 36 inch steel piles, none are currently planned to be installed. If steel piles became necessary then only up to eight would be installed within the 5 years of the LOA.

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide information about the occurrence of marine mammals, including density or other relevant information that will inform the take calculations. We describe how the information provided above is brought together to produce a quantitative take estimate for each species.

Take Estimation

To quantitatively assess potential exposure of marine mammals to noise levels from pile driving over the NMFS threshold guidance, the following equation was first used to provide an estimate of potential exposures within estimated harassment zones:

Exposure estimate = N × Level B harassment zone (km^2) × maximum days of pile driving per year where N = density estimate (animals per km^2) used for each species.

Note that the area of the harassment zone is truncated by land masses surrounding the area (*i.e.,* Whidbey Island, Port Townsend mainland, and Indian Island). Densities are shown in table 10.

In addition, local occurrence data from prior monitoring efforts, discussed in the next paragraph, was used as a supplement to estimate potential occurrence of harbor seals within the Level A harassment zones. This method is conservative in providing estimates of potential exposure above the total given using the aforementioned equation that we equate here with Level A harassment.

For harbor seals, which were the primary species found within 1,000 m of the Ammunition Wharf during pile driving monitoring from 2014 to 2016 and 2020 (Navy, 2014, 2016, 2021), a daily rate of harbor seal occurrence was determined for vibratory installation of fender piles for the Level A harassment zones. Only harbor seals were observed during pile driving monitoring (Navy, 2016, 2020) and weekly marine mammal surveys (2022) at NAVMAG Indian Island Ammunition Wharf with the exception of a single harbor porpoise and a single California sea lion. The site-specific data was used to estimate take only for harbor seals at a rate of 0.5 seals per day from concrete impact driving and eight seals per day from steel impact driving, based on the different estimated zone sizes.

During the site-specific monitoring efforts discussed above, only harbor seals were observed during pile driving monitoring (Navy, 2016, 2020) and weekly marine mammal surveys (2022) at NAVMAG Indian Island Ammunition Wharf, with the exception of a single harbor porpoise and a single California sea lion. For species other than harbor seal—for which use of the available density information and the equation given above provide low calculated take estimates (described in species-specific sections below)—it was assumed between one (*i.e.,* gray whale, minke whale) and three animals will be taken over the duration of the rule (by Level B harassment only). For California sea lions, Steller sea lions, and northern elephant seals it was assumed that there will be one take per year from concrete/fender pile installation (by Level B harassment only). It was also assumed that there will be one additional take per year by Level B harassment during steel pile installation for the northern elephant seal. In contrast to pinniped species, Dall's porpoises and harbor porpoises often occur in pods of two to four porpoises. Therefore, it was assumed that there will be up to three takes per year by concrete/fender pile installation for each species with three additional takes per year only for Dall's porpoises per year due to steel pile installation. All takes are assumed to be by Level B harassment only, based on the assumed rarity of occurrence and the Navy's plan to implement shutdown procedures for all cetaceans at the estimated Level B harassment distance.

The density estimates given in table 10 come from the Pacific Navy's Marine Species Density Database (NMSDD), Naval Facilities Engineering Systems Command (NAVFAC) Pacific Technical Report (Navy, 2020) and Smultea *et al.* (2017) (for harbor porpoise). The seasonal density value for each species during the in-water work window at each site was used in the marine mammal take assessment calculation.

Note that the largest Level B harassment zone will be generated during vibratory driving. The Level B harassment zone for an impact hammer will be encompassed by the larger Level B harassment zone from the vibratory driver. Impact pile driving was assumed

to be one pile per day but actual daily production rates may be higher with a maximum of two per day, resulting in fewer in-water pile driving days. It was assumed that 22 days of concrete pile installation will occur. This is a conservative estimate based on past work at NAVMAG. There will be up to 22 concrete piles (24-in) driven over the maximum of 22 days per year over 5 years with up to two 24-inch concrete piles driven per day (1 to 2 piles installed per day; mean of 1.8 piles installed per day) depending on accessing the wharf deck, weather, harbor seal delays, or equipment issues. Note that this conservative estimate of pile driving days is used solely to assess the number of days during which pile driving could occur if production was delayed due to equipment failure, safety, *etc.* In a real construction situation, pile driving production rates will be maximized when possible.

TABLE 10—MARINE MAMMAL SPECIES DENSITIES IN PROJECT AREA

Species	Region location	Density (October–February) * Animals km^2
Gray whale	North Puget Sound	Zero (within 1,000 m).[1] 0.00048 (Fall and Winter).[2]
Minke Whale	Puget Sound	Zero (within 1,000 m).[1] 0.00045 (Annual).[2]
Harbor porpoise	North Puget Sound	1.16 (Annual).[2 3]
Dall's porpoise	Puget Sound	0.00045 (Annual).[2]
Steller sea lion	Puget Sound	Zero (within 1,000 m).[2] 0.0478 (Fall and Winter).[1]
California sea lion	Puget Sound	Zero (within 1,000 m).[1] 0.2211 (Fall).[2] 0.1100 (Winter).[2]
Northern elephant seal	Puget Sound	Zero (within 1,000 m).[1] 0.0000 (Annual).[2]
Harbor Seal	North Puget Sound	14–18.75-inch Fender Pile Driving.[1] Within 10 m = 0.0 seals/day (Level A zone). Within 1,000 m = 15.54 seals per day (Level B harassment zone). 24-inch Concrete Impact Pile Driving.[1] Within 29 m = 0.5 seals/day (Level A harassment zone). Combine with the larger fender pile vibratory Level B harassment zone. 36-inch Steel Impact Pile Driving.[1] Within 182 m = 8 seals/day (Level A harassment zone). Combine with the larger vibratory zone for Level B harassment. 36-inch Steel Vibratory Pile Driving. Within 10 m = 0.0 seals/day (Level A zone). Within 13.6 km (54 km^2) = 2.83 seals/km^2.

* 13.6 km with an area of 54 km^2 (a large part of the area was truncated by land masses) was used for 36-inch steel pile vibratory installation.
Sources: [1] Navy, 2014, 2016; 2021; [2] NMSDD (Navy, 2020), [3] Smultea *et al.* (2017).

It is important to note that the successful implementation of mitigation methods (*i.e.,* visual monitoring and the use of shutdown zones) is expected to result in no Level A harassment exposure to all marine mammals except harbor seals because the injury zones and behavioral zones will be monitored during pile driving. Harbor seal Level A harassment exposure will be limited to the smallest extent practicable. The exposure assessment estimates the numbers of individuals potentially exposed to the effects of pile driving noise exceeding NMFS established thresholds. Results from acoustic impact exposure assessments should be regarded as conservative overestimates that are strongly influenced by limited marine mammal data, the assumption that marine mammals will be present during pile driving, and the assumptions that the maximum number of piles will be extracted or installed.

Gray Whale

Most gray whales in Puget Sound utilize the feeding areas in northern Puget Sound around Whidbey Island and in Port Susan in March through June with a few individual sightings occurring year-round that are not always associated with feeding areas. Therefore, gray whales are included in the take authorization. The majority of in-water work will occur during the fall and winter when gray whales are less likely to be present in Puget Sound. Therefore, based on a low probability of occurrence within the vibratory harassment zones, the Navy used the formula described above to calculate estimated exposures. The formula estimated zero takes per year; however, due to the uncertainty of gray whale movements and the large area of exposure during vibratory driving of 36-inch steel piles, the Navy has requested and NMFS has assumed take by Level B harassment at a rate of one animal per year.

To protect gray whales from noise impacts, the Navy will implement a shutdown if protected species observers (PSO) see gray whales approaching or within any harassment zone. A PSO will be stationed at locations from which the injury zone and behavioral zone for impact and vibratory pile driving are visible and will implement shutdown if a whale approaches or enters either zone. With the implementation of monitoring, even if a whale enters an injury zone, shutdown would occur before cumulative exposure to noise levels that would result in PTS could occur. Because pile driving will be shut down if whales are in the injury zone, no Level A harassment take has been requested or authorized by NMFS. In summary, the Navy has requested, and NMFS has authorized one take of gray whale by Level B harassment each year for the duration of the 5-year LOA.

Minke Whale

Minke whales in Washington inland waters typically feed in the areas around the San Juan Islands and along banks in the Strait of Juan de Fuca. Minke whales are infrequent visitors to Puget Sound, especially east of Admiralty Inlet. When present, minke whales are usually seen singly or in pairs. Therefore, based on a low probability of occurrence within

the vibratory harassment zones, the Navy used the same equation discussed above to calculate estimated exposures. The formula estimated zero takes annually for the duration of the LOA. However, due to the uncertainty of minke whale movements and the large area of exposure during vibratory driving of 36-inch steel piles, the Navy requested, and NMFS has authorized take for the exposure of one minke whale per year for the duration of the 5-year LOA.

To protect minke whales from noise impacts, the Navy will implement a shutdown if PSOs see minke whales approaching or within any harassment zone. A PSO will be stationed at locations from which the injury zone and behavioral zone for impact and vibratory pile driving are visible and will implement shutdown if a whale approaches or enters either zone. PSOs may be stationed on boats to observe a greater portion of the shutdown zone than is visible from land-based locations. With the implementation of monitoring, even if a whale enters an injury zone, shutdown would occur before cumulative exposure to noise levels that would result in PTS could occur. Because pile driving will be shut down if whales are in the injury zone, no Level A harassment take has been requested or will be authorized by NMFS. In summary, although minke whales are rare in the project area, the Navy has requested and NMFS has assumed one take of minke whale by Level B harassment each year for the duration of the 5-year LOA.

Dall's Porpoise

Dall's porpoises are most abundant in the Strait of Juan de Fuca and Haro Strait in the San Juan Islands area, but may be present in Puget Sound year-round. Group size is usually two to four, although larger groups are often sighted (Anderson *et al.,* 2018). In Puget Sound, the Navy has estimated that Dall's porpoise density is 0.045 animals/km^2, although they have not been reported near NAVMAG Indian Island in recent years and their occurrence in both the Salish Sea and Puget Sound appears to be declining (Smultea *et al.,* 2015; Evenson *et al.,* 2016; Jefferson *et al.,* 2016). The Navy used the formula described previously to calculate potential exposures. The formula estimated zero takes. Due to the uncertainty of Dall's porpoise movements and the large estimated harassment area during vibratory driving, the Navy assumed, and NMFS concurred, that there will be three takes from work on the fender piles and three takes from work on the steel piles each year, by Level B harassment only.

To protect Dall's porpoises from noise impacts, the Navy will implement a shutdown if PSOs see porpoises approaching or inside of any harassment zone. A PSO will be stationed at locations from which the harassment zones for impact and vibratory pile driving are visible and will implement shutdown if a porpoise approaches or enters any zone. With the implementation of monitoring, even if a Dall's porpoise enters an injury zone, shutdown would occur before cumulative exposure to noise levels that would result in PTS could occur. Because pile driving will be shut down if porpoises are in the injury zone, no Level A harassment take has been requested or will be authorized. In summary, although Dall's porpoises are rare in the project area, the Navy has requested, and NMFS has assumed take of 30 Dall's porpoises (6 per year) by Level B harassment over the 5-year LOA period.

Harbor Porpoise

Harbor porpoises may be present in all major regions of Puget Sound throughout the year. Group sizes ranging from 1 to 150 individuals were reported in aerial surveys conducted from summer 2013 to spring 2016, but mean group size was 1.7 animals (Smultea *et al.,* 2017). The estimated harbor porpoise density in inland waters is provided in table 10. The estimated exposure equation described previously was employed resulting in 125 takes per year from steel vibratory driving. Take from concrete/fender vibratory driving was calculated to be 0.05 exposures per year. However, the Navy requested authorization of three takes per year resulting from this activity as a precaution. Note that harbor porpoises were not observed during pile driving monitoring at NAVMAG Indian Island ammunition wharf from 2014 to 2016 (Navy, 2014; Navy 2016), but one was observed in 2020 within 200 m of the Wharf (Navy, 2021).

The Navy will implement a shutdown if porpoises are seen by PSOs entering or within any harassment zone in order to protect harbor porpoises from noise impacts. A monitor will be stationed at locations from which the injury and behavioral harassment zones for impact and vibratory pile driving are visible and will implement shutdown if a porpoise approaches or enters any harassment zone. With the implementation of monitoring, even if a harbor porpoise enters an injury zone, shutdown would occur before cumulative exposure to noise levels that would result in PTS could occur. Because pile driving will be shut down if porpoises are in the injury zone, no Level A harassment take has been requested or will be authorized. In summary, the Navy has requested, and NMFS has assumed take of up to 640 harbor porpoises by Level B harassment (3 per year for work on concrete/fender piles and 125 per year from for work on steel piles) for the duration of the 5-year LOA.

California Sea Lion

California sea lions occur in Puget Sound from approximately August to June. This species occasionally hauls out on the port security barriers at NAVMAG Indian Island. These haulouts are adjacent to, in, or near the Level B harassment zones, so exposure may occur if animals move through Level B harassment zones during impact or vibratory pile driving activities. California sea lions were not observed during previous pile driving monitoring at NAVMAG Indian Island ammunition wharf in 2014 to 2016 (Navy, 2014; Navy 2016), but one was observed during 2020 (Navy, 2021). Although calculated take was zero, reflecting their unlikely occurrence, Level B harassment exposures for the concrete and fender pile driving were estimated as one sea lion per year. Exposure estimates for vibratory driving of steel piles utilized the estimated exposure equation, resulting in estimated take of 17.88 sea lions per year, which was rounded up to 18 sea lion takes per year. Because a Level A harassment injury zone can be effectively monitored and a shutdown zone will be implemented, no take by Level A harassment is anticipated or will be authorized. Based on the aforementioned considerations, NMFS is authorizing take of 95 California sea lions (1 per year by work on concrete/fender piles and 18 per year from work on steel piles), by Level B harassment only, for the duration of the 5-year LOA.

Steller Sea Lion

Steller sea lions occur seasonally in Puget Sound primarily from September through May. Take may occur if these animals move through Level B harassment zones during impact or vibratory pile driving. Although their occurrence is unlikely, the Navy assumed that there will be one Level B harassment take from concrete and fender pile driving per year. Level B harassment exposure estimates for steel piles utilized the exposure estimate equation described previously using densities from table 10 resulting in an estimated take of 5.16 animals per year

rounded to 5 takes. Steller sea lions were not observed during previous monitoring at NAVMAG Indian Island ammunition wharf in 2014 to 2016 (Navy, 2014, 2016, 2021). Because the Level A harassment injury zone is small under all driving scenarios, it can be effectively monitored. A shutdown will be implemented if animals approach the injury zone and no exposure to Level A harassment noise levels is anticipated at any location. In summary, the Navy has requested, and NMFS is authorizing take of up to 30 Steller sea lions (five for work on concrete/fender piles over 5 years and 25 for work on steel piles over 5 years) by Level B harassment for the duration of the 5-year LOA.

Northern Elephant Seal

Northern elephant seals are considered rare visitors to Puget Sound. No regular elephant seal haul outs occur in Puget Sound, although individual elephant seals have been detected hauling out for 2 to 4 weeks to molt, usually during the spring and summer. Haul out locations are unpredictable, but only one record is known for a Navy installation. The Navy reports a density of 0.0 in Puget Sound (Navy, 2020). However, because there are occasional sightings in Puget Sound, the Navy assumed that there will be one exposure from concrete/fender driving and one exposure from steel driving during each year of the LOA. Because elephant seals are rare in the project area and monitoring and shutdown measures will be implemented, no Level A harassment exposure is anticipated. In summary, the Navy has requested, and NMFS is authorizing take of up to 10 northern elephant seals (2 per year) by Level B harassment for the duration of the 5-year LOA.

Pacific Harbor Seal

Pacific harbor seals are expected to occur year-round at NAVMAG Indian Island. This species hauls out regularly at Rat Island adjacent to the northeastern end of NAVMAG Indian Island year-round with a dip in numbers in winter months. Harbor seals are most likely to be exposed to Level A harassment noise when they swim through the area near the Ammunition Wharf during impact pile driving (182 m for steel impact driving and 29 m for concrete impact driving). Pile driving will shut down whenever a seal is detected by monitors nearing or within the injury zone, but harbor seals can dive for up to 15 minutes and may not be detected until they have been within the injury zone for a sufficient period of time to incur PTS. For most pile driving activities, exposure of harbor seals to pile driving noise will be limited to Level B harassment. Level B harassment exposure estimates for vibratory driving were determined using the formula of Level B harassment zone area × density × days of vibratory pile driving. The Navy has calculated take by Level B harassment of 1,710 harbor seals during vibratory installation of fender piles (342 per year), and 1,530 harbor seals during vibratory pile driving of steel piles (306 per year). Therefore, the Navy has requested, and NMFS is authorizing take of up to 3,240 Pacific harbor seals by Level B harassment for the duration of the LOA. In addition, the Navy has requested and NMFS is authorizing up to 135 harbor seal takes (27 per year) by Level A harassment during the 5-year LOA. This is based on the daily average of site-specific observations from several seasons of pile driving monitoring at the Ammunition Wharf and weekly surveys conducted at NAVMAG Indian Island provided above. Observations of seals within 29 m would be calculated to a mean of seals per day within the Level A harassment zone. (Using the density value would underestimate the number of seals in that small zone.) This assumption results in 11 Level A harassment takes per year (0.5 seals/day for 22 days) for impact driving of concrete piles (55 takes for 5 years) and 16 takes per year (8 seals/day for 2 days) for impact driving of steel piles (80 takes over 5 years).

The annual and total number of takes that may be authorized by NMFS are shown in table 11 and table 12.

TABLE 11—ANNUAL TAKE BY LEVEL A AND LEVEL B HARASSMENT AND PERCENTAGE OF STOCK ABUNDANCE FOR AUTHORIZED SPECIES/STOCKS

Species	Exposures				Total annual	Population	Percent of stock/distinct population segment (DPS) per year
	24-Inch concrete piles and/or 14-in/18.75-inch fender piles (up to 22 piles/year)		36-Inch steel piles (up to 2 piles/year)				
	Level B impact or vibratory	Level A impact	Level B impact or vibratory	Level A impact			
Gray Whale	0	0	1	0	1	26,960	<0.01
Minke Whale	0	0	1	0	1	915	<0.01
Dall's Porpoise	3	0	3	0	6	16,498	<0.01
Harbor Porpoise	3	0	125	0	128	11,233	1.11
California Sea Lion	1	0	18	0	19	257,606	<0.01
Steller Sea Lion	1	0	5	0	6	43,201	<0.01
Northern Elephant Seal	1	0	1	0	2	187,386	<0.01
Pacific Harbor Seal	342	11	306	16	675	11,036	6.11

TABLE 12—TOTAL 5-YEAR AUTHORIZED TAKES (LEVEL A HARASSMENT AND LEVEL B HARASSMENT)

Species	Stock	Level A harassment	Level B harassment	Total 5-year
Gray Whale	Eastern North Pacific	.....	5	5
Minke Whale	California/Oregon/Washington	.....	5	5
Dall's Porpoise	California/Oregon/Washington	.....	30	30
Harbor Porpoise	Washington Inland Waters	.....	640	640
California Sea Lion	United States	.....	95	95
Steller Sea Lion	Eastern United States	.....	30	30
Northern Elephant Seal	California Breeding	.....	10	10
Pacific Harbor Seal	Washington Northern Inland Waters	135	3,240	3,375

Mitigation

In order to issue an LOA under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

In order to limit impacts to marine mammals, vibratory installation will be used by the Navy to the extent practicable to drive steel piles to minimize high sound pressure levels associated with impact pile driving. Jetting will also be used to the extent possible to install concrete piles in order to minimize higher sound pressure levels associated with impact pile driving. Note that a draft monitoring plan will be submitted in the spring at least 90 days prior to the start of the in-water work period (October) during the first year of the project (2024). The final monitoring plan will be prepared and submitted to NMFS within 30 days following receipt of comments on the draft plan from NMFS.

The Navy will ensure that construction supervisors and crews, the monitoring team, and relevant Navy staff are trained and prior to the start of construction activity subject to this rule, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project will be trained prior to commencing work.

Shutdown Zones

Before the commencement of in-water construction activities, the Navy will establish shutdown zones for all impact and pile driving activities. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones will vary based on the activity type and marine mammal hearing group but will include all areas where the underwater sound pressure levels are anticipated to equal or exceed the Level A harassment (injury) criteria for marine mammals. The shutdown zone will always be a minimum of 10 m to prevent injury from physical interaction of marine mammals with construction equipment. The Level A harassment zones are based on the maximum calculated radius for pinnipeds and cetaceans, specifically harbor porpoises, during installation of 36-inch steel piles and 24-inch concrete piles with impact techniques, and the Level B harassment zone for impact and vibratory pile installation.

Injury to harbor seals from noise due to impact and vibratory pile driving and physical interaction with construction equipment will be minimized to the extent practicable by implementing a shutdown if the animals are observed to be swimming towards the injury zone. For steel pile impact driving, to the extent possible, PSOs will initiate shutdown when harbor seals enter the injury zone; however, because of the size of the zone and the inherent difficulty in monitoring harbor seals, a highly mobile species, it may not be practical, which is why Level A harassment take has been analyzed.

The taking by serious injury or death of any of the species listed in table 12 or any taking of any other species of marine mammal is prohibited. The Navy will establish shutdown zones for all marine mammals for which incidental take has been authorized but the authorized number of takes has been met. These zones are equivalent to the Level B harassment zones for each activity. If such animals are sighted within the vicinity of the project areas and are approaching the Level B harassment zone, the Navy will shut down the pile driving equipment to avoid possible take of these species.

Pile driving activities will cease if any cetaceans authorized for take are seen approaching or entering any harassment zone. Work will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the injury zone or visual portion of the Level B harassment zone or 15 minutes have passed without re-detection of the animal. Additionally, if a shutdown zone is obscured by fog or poor lighting conditions, pile driving will not be initiated until the entire shutdown zone is visible.

If a pinniped approaches or enters a shutdown zone during pile impact or vibratory driving, work will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal. If a pinniped is observed in the Level B harassment zone, but not approaching or entering the shutdown zone, the work will be allowed to proceed without cessation of pile driving. Marine mammal behavior will be monitored and documented.

TABLE 13—SHUTDOWN AND HARASSMENT ZONES

Pile size and type	Shutdown zone (m)			Level B harassment zone (m)
	Cetaceans	Harbor seal	Sea lion	
24-inch Concrete Impact	90	30	10	90
36-inch Steel Impact	400	200	20	400
36-inch Steel Vibratory	13,600	10	10	13,600

TABLE 13—SHUTDOWN AND HARASSMENT ZONES—Continued

Pile size and type	Shutdown zone (m)			Level B harassment zone (m)
	Cetaceans	Harbor seal	Sea lion	
Fender Vibratory	1,000	10	10	1,000

At minimum, the shutdown zone for all hearing groups and all activities will be 10 m. For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, *etc.*), if a marine mammal comes within 10 m, operations will cease and vessels will reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include, for example, the movement of the barge to the pile location or positioning of the pile on the substrate via a crane.

Pre-Activity Monitoring

Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs will observe the shutdown and Level B harassment zones for a period of 30 minutes. The shutdown zone will be considered cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zones listed in table 13, pile driving activity would be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity will not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zones or 15 minutes have passed without re-detection of the animal. If work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones will commence. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

Monitoring will take place from 30 minutes prior to initiation through 30 minutes post-completion of pile driving. Prior to the start of pile driving, the shutdown zone will be monitored for 30 minutes to ensure that the shutdown zone is clear of marine mammals. Pile driving will only commence once PSOs have declared the shutdown zone clear of marine mammals.

Soft Start

Soft-start procedures are used to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. Soft start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer.

Bubble Curtain

Should use of 36-inch steel piles be necessary, a bubble curtain will be used for all impact driving of steel piles to attenuate noise. Because of the relatively low underwater noise levels associated with impact driving of concrete piles, bubble curtains are not required for impact installation of concrete piles.

A bubble curtain will be employed during impact installation or proofing of steel pile where water depths are greater than 0.67 m. A noise attenuation device will not be required during vibratory pile driving. If a bubble curtain or similar measure is used, it will distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column. A bubble curtain is usually a ring or series of stacked rings that are placed around a pile along the pile's entire length under water. The rings are made of tubing which has small puncture holes through which compressed air is pumped. As the compressed air bubbles flow from the tubing, they create an air barrier that impedes the sound produced during pile driving. Any other attenuation measure will be required to provide 100 percent coverage in the water column for the full depth of the pile. The lowest bubble ring would be in contact with the mudline for the full circumference of the ring. The weights attached to the bottom ring will ensure 100 percent mudline contact. No parts of the ring or other objects will prevent full mudline contact.

NMFS has determined that the required mitigation measures provide the means of effecting the least practicable adverse impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an LOA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,

• Mitigation and monitoring effectiveness.

The Navy will submit a Marine Mammal Monitoring Plan to NMFS for approval at least 90 days in advance of the start of the first year of construction.

Visual Monitoring

• Monitoring must be conducted during pile driving activities by qualified, NMFS-approved PSOs, in accordance with the following conditions: PSOs must be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods.

• At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

• Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

• Where a team of three or more PSOs is required, a lead PSO or monitoring coordinator must be designated. The lead PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

• PSOs must be approved by NMFS prior to beginning any activity subject to this rule.

All PSOs shall be trained in marine mammal identification and behaviors, and satisfy the following criteria:

• Visual acuity in both eyes (correction is permissible) sufficient to discern moving targets at the water's surface with ability to estimate target size and distance. Use of binoculars or spotting scope may be necessary to correctly identify the target.

• Advanced education in biological science, wildlife management, mammalogy or related field (Bachelor's degree or higher is preferred).

• Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience).

• Experience or training in the field identification of marine mammals (cetaceans and pinnipeds).

• Sufficient training, orientation or experience with vessel operation and pile driving operations to provide for personal safety during observations.

• Writing skills sufficient to prepare a report of observations. Reports should include such information as the number, type, and location of marine mammals observed; the behavior of marine mammals in the area of potential sound effects during construction; dates and times when observations and in-water construction activities were conducted; dates and times when in-water construction activities were suspended because of marine mammals, *etc.*

• Ability to communicate orally, by radio or in person, with project personnel to provide real time information on marine mammals observed in the area and necessary actions, as needed.

During pile driving activities, the Navy will assign PSOs to monitor the identified harassment zones. The number and placement of PSOs will vary depending upon the pile size, location, and number of piles being installed or removed. In order to effectively monitor the shutdown and Level B harassment zones, PSOs will be positioned at the best practicable vantage points, taking into consideration security, safety, and space limitations. The PSOs will be stationed on the pier, vessel, on shore, or on the pile driving barge in a location that will provide adequate visual coverage for the identified harassment zones. During pile driving, at least one PSO will be stationed on a vessel if practicable.

Monitoring will be conducted 30 minutes before, during, and 30 minutes after all in water construction activities. In addition, PSOs will record all incidents of marine mammal occurrence, regardless of distance from activity, and will document any behavioral reactions in concert with distance from piles being driven or removed.

Reporting

The Navy must submit a draft monitoring report to NMFS within 90 calendar days of the completion of each construction year. A draft comprehensive 5-year summary report must also be submitted to NMFS within 90 days of the end of the project. The reports must detail the monitoring protocol and summarize the data recorded during monitoring. Final annual reports and the final comprehensive report must be prepared and submitted within 30 days following resolution of any NMFS comments on the draft report. If no comments are received from NMFS within 30 days of receipt of the draft report, the report must be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. The marine mammal report will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report will include:

• Dates and times (begin and end) of all marine mammal monitoring;

• Construction activities occurring during each daily observation period, including: (a) How many and what type of piles were driven or removed and the method (*i.e.,* impact or vibratory); and (b) the total duration of time for each pile (vibratory driving) number of strikes for each pile (impact driving);

• PSO locations during marine mammal monitoring; and

• Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.

In addition, for each observation of a marine mammal, the marine mammal report will include the following information:

• Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting;

• Time of sighting;

• Identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;

• Distance and location of each observed marine mammal relative to the pile being driven for each sighting;

• Estimated number of animals (min/max/best estimate);

• Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*);

• Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

• Number of marine mammals detected within the harassment zones, by species; and

• Detailed information about implementation of any mitigation (*e.g.,* shutdowns and delays), a description of specified actions that ensued, and

resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft reports will constitute the final reports. If comments are received, a final report addressing NMFS' comments will be required to be submitted within 30 days after receipt of comments. All PSO datasheets and/or raw sighting data will be submitted with the draft marine mammal report.

Reporting of Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Navy must report the incident to NMFS Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS (301–427–8401) and to the NMFS Northwest Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, the Navy must immediately cease the specified activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this rule. The Navy will not resume their activities until notified by NMFS. The report must include the following information:

1. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
2. Species identification (if known) or description of the animal(s) involved;
3. Condition of the animal(s) (including carcass condition if the animal is dead);
4. Observed behaviors of the animal(s), if alive;
5. If available, photographs or video footage of the animal(s); and General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be taken through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to the species listed in table 12, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences among species, stocks, or groups of species, anticipated responses of individual animals to activities, and/or impacts of expected take on the population (due to differences in population status, or impacts on habitat), the outliers are described independently in the analysis below.

Pile driving activities associated with the project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A and Level B harassment from underwater sounds generated by pile driving. Potential takes could occur if marine mammals are present in zones ensonified above the thresholds for Level A and Level B harassment, identified above, while activities are underway.

No serious injury or mortality would be expected even in the absence of the mitigation measures. During all impact driving, implementation of soft-start procedures and monitoring of established shutdown zones will be required, significantly reducing the possibility of injury. Given sufficient notice through use of soft-start (for impact driving), marine mammals are expected to move away from an irritating sound source before it becomes potentially injurious. In addition, PSOs will be stationed within the project area whenever pile driving activities are underway. Depending on the activity, the Navy will employ land-based PSOs to ensure all monitoring and shutdown zones are properly observed. For monitoring of larger harassment zones, the Navy will employ vessel-based PSOs if practicable. Some harbor seals could be exposed to Level A harassment levels of noise when they swim through the area near the Ammunition Wharf during impact pile driving. Pile driving will shut down whenever a seal is detected by PSOs nearing or within the injury zone, but harbor seals can dive for up to 15 minutes and may not be detected. Any animals that experience PTS would likely only receive slight PTS, *i.e.,* minor degradation of hearing capabilities within regions of hearing that align most completely with the frequency range of the energy produced by pile driving (*i.e.,* the low-frequency region below 2 kHz), not severe hearing impairment or impairment in the range of greatest hearing sensitivity. If hearing impairment does occur, it is most likely that the affected animal would lose a few dBs in its hearing sensitivity, which, in most cases, is not likely to meaningfully affect its ability to forage and communicate with conspecifics. As described above, we expect that, given sufficient notice through use of soft-start, marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially when the sound source is at levels that would be expected to result in PTS. For most pile driving activities, exposure of harbor seals to pile driving noise will be minimized to short-term behavioral harassment (Level B harassment).

Exposures to elevated sound levels produced during pile driving activities may cause behavioral disturbance of some individuals, but the behavioral disturbances are expected to be mild and temporary. However, as described previously, the mitigation and monitoring measures are expected to further reduce the likelihood of injury as well as reduce behavioral disturbances.

Effects on individuals that are taken by Level B harassment, as enumerated in the Estimated Take section, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006). Most likely, individual animals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although

even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted along both Atlantic and Pacific coasts, which have taken place with no known long-term adverse consequences from behavioral harassment. These reactions and behavioral changes are expected to subside quickly when the exposures cease. Level B harassment will be minimized through use of mitigation measures described herein, and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring, particularly as the project is located on a waterfront with vessel traffic from both Navy and non-Navy activities.

The project is also not expected to have significant adverse effects on any marine mammal habitat. The Navy's planned pile driving activities and associated impacts will occur within a limited portion of the confluence of the Puget Sound-Port Townsend Bay area. The project activities will not modify existing marine mammal habitat since the project will occur within the same footprint as existing marine infrastructure. Impacts to the immediate substrate during installation and removal of piles are anticipated, but these would be limited to minor, temporary suspension of sediments, which could impact water quality and visibility for a short amount of time, but which would not be expected to have any effects on individual marine mammals. The nearshore and intertidal habitat where the project will occur is an area of consistent vessel traffic from Navy and non-Navy vessels, and some local individuals would likely be somewhat habituated to the level of activity in the area, further reducing the likelihood of more severe impacts. The closest pinniped haulout, Rat Island, is used by harbor seals and is 2.4 km from the Ammunition Wharf. However, for the reasons described immediately above (including the nature of expected responses and the duration of the project), impacts to reproduction or survival of individuals are not anticipated, and are not expected to have effects on the species or stock. There are no other biologically important areas for marine mammals near the project area.

Impacts to marine mammal prey species are expected to be minor and temporary. Overall, the area impacted by the project is very small compared to the available habitat in Port Townsend Bay and larger Puget Sound. The most likely impact to prey will be temporary behavioral avoidance of the immediate area. During pile driving activities, it is expected that some fish and marine mammals would temporarily leave the area of disturbance, thus impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- No Level A harassment is anticipated or authorized with the exception of limited take of harbor seals;
- Anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior;
- The required mitigation measures (*i.e.,* shutdown zones) are expected to be effective in reducing the effects of the specified activity;
- Minimal impacts to marine mammal habitat/prey are expected; and
- There are no known biologically important areas in the vicinity of the project, with the exception of one harbor seal haulout (Rat Island). However, as described above, exposure to the work conducted in the vicinity of the haulout is not expected to impact the reproduction or survival of any individual seals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Take of eight marine mammal stocks authorized for take will comprise no more than 6.11 percent of a single stock abundance (Pacific harbor seal) as shown in table 11. The number of animals authorized to be taken from these stocks would be considered small relative to the relevant stock's abundances even if each estimated take occurred to a new individual, which is an unlikely scenario. Based on the analysis contained herein of the planned activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Adaptive Management

The regulations governing the take of marine mammals incidental to Navy construction activities will contain an adaptive management component. The reporting requirements associated with this rule are designed to provide NMFS with monitoring data from completed projects to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the Navy regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable.

The following are some of the possible sources of applicable data to be

considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or LOAs issues pursuant to these regulations.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of rules, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the NMFS West Coast Regional Office.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that consultation under section 7 of the ESA is not required for this action.

Classification

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this rule is not significant.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 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 action will not have a significant economic impact on a substantial number of small entities. The Navy is the sole entity that will be subject to the requirements in these regulations, and the Navy is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. No comments were received regarding this certification or on the economic impacts of the rule more generally. As a result, a regulatory flexibility analysis is not required and none has been prepared.

This rule does not contain a collection-of-information requirement subject to the provisions of the Paperwork Reduction Act (PRA) because the applicant is a Federal agency.

List of Subjects in 50 CFR Part 217

Administrative practice and procedure, Exports, Fish, Imports, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: January 23, 2024.

Samuel D. Rauch, III,

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

For reasons set forth in the preamble, NMFS revises subpart I of 50 CFR part 217 as follows:

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

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

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. Revise subpart I, consisting of §§ 217.80 through 217.89, to read as follows:

Subpart I—Taking Marine Mammals Incidental to U.S. Navy Construction at the Naval Magazine Indian Island Ammunition Wharf, Puget Sound, Washington

Sec.

217.80 Specified activity and geographical region.
217.81 Effective dates.
217.82 Permissible methods of taking.
217.83 Prohibitions.
217.84 Mitigation requirements.
217.85 Requirements for monitoring and reporting.
217.86 Letters of Authorization.
217.87 Renewals and modifications of Letters of Authorization.
217.88–217.89 [Reserved]

Subpart I—Taking Marine Mammals Incidental to U.S. Navy Construction at the Naval Magazine Indian Island Ammunition Wharf, Puget Sound, Washington

§ 217.80 Specified activity and geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy (Navy) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occur in the areas outlined in paragraph (b) of this section and that occur incidental to construction activities, including maintenance and replacement of piles, at the Naval Magazine Indian Island Ammunition Wharf, Puget Sound, Washington.

(b) The taking of marine mammals by the Navy may be authorized in a Letter of Authorization (LOA) only if it occurs at the Naval Magazine Indian Island Ammunition Wharf, Puget Sound, Washington.

§ 217.81 Effective dates.

Regulations in this subpart are effective from October 1, 2024, until September 30, 2029.

§ 217.82 Permissible methods of taking.

Under an LOA issued pursuant to § 216.106 of this chapter and § 217.86, the Holder of the LOA (hereinafter ''Navy'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.80 (b) by harassment associated with construction activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the applicable LOA.

§ 217.83 Prohibitions.

(a) Except for the takings contemplated in § 217.82 and authorized by a LOA issued under §§ 216.106 of this chapter and 217.86, it is unlawful for any person to do any of the following in connection with the activities described in § 217.80:

(1) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under § 216.106 of this chapter and § 217.86;

(2) Take any marine mammal not specified in such LOA;

(3) Take any marine mammal specified in such LOA in any manner other than as specified;

(4) Take a marine mammal specified in such LOA if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(5) Take a marine mammal specified in such LOA after NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

(b) [Reserved]

§ 217.84 Mitigation requirements.

(a) When conducting the activities identified in § 217.80(a), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and §§ 217.86 or 217.87 must be implemented. These mitigation measures include but are not limited to:

(1) A copy of any issued LOA must be in the possession of the Navy, its designees, and work crew personnel operating under the authority of the issued LOA;

(2) The Navy must follow mitigation procedures as described in § 217.84. Protected Species Observers (PSO) must monitor designated harassment zones

described in the LOA to the maximum extent practicable based on daily visibility conditions.

(3) The Navy must ensure that construction supervisors and crews, the PSO team, and relevant Navy staff are trained prior to the start of construction activity subject to this rule, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project must be trained prior to commencing work;

(4) The Navy must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary, to avoid direct physical interaction;

(5) For all pile driving activity, the Navy must implement shutdown zones with radial distances as identified in a LOA issued under § 216.106 of this chapter and §§ 217.86 or 217.87. If a marine mammal comes within or approaches the shutdown zone, pile driving activity must cease;

(6) The Navy must shut down in-water activities when cetaceans are observed approaching or within any harassment zone;

(7) The Navy must use soft start techniques when impact pile driving. Soft start requires an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period. Then two subsequent reduced-energy strike sets would occur. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer;

(8) The Navy must employ bubble curtain systems during impact driving of 36-in steel piles except under conditions where the water depth is less than 0.67 meters (2 feet) in depth. Bubble curtains must meet the following requirements;

(i) The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column;

(ii) The lowest bubble ring must be in contact with the mudline and/or rock bottom for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline and/or rock bottom contact. No parts of the ring or other objects shall prevent full mudline and/or rock bottom contact; and

(iii) The bubble curtain must be operated such that there is equal balancing of air flow to all bubblers;

(9) The Navy must deploy PSOs as indicated in its Marine Mammal Monitoring Plan that has been approved by NMFS;

(10) For all pile driving activities, land-based PSOs must be stationed at the best vantage points practicable to monitor for marine mammals and implement shutdown/delay procedures. At least one vessel-based PSO must be employed when practicable. Additional PSOs must be added if warranted by site conditions and/or the level of marine mammal activity in the area;

(11) Monitoring must take place from 30 minutes prior to initiation of pile driving activity (*i.e.,* pre-start clearance monitoring) through 30 minutes post-completion of pile driving activity. Pre-activity monitoring must be conducted for 30 minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may only commence when PSOs have declared the shutdown zone clear of marine mammals;

(12) In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals must be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior must be monitored and documented. If a marine mammal is observed within the shutdown zone, a soft start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. Monitoring must occur throughout the time required to drive a pile;

(13) If work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones must commence. A determination that the shutdown zone is clear must be made during a period of good visibility;

(14) If a marine mammal approaches or enters the shutdown zone, all pile driving activities at that location must be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal;

(15) Pile driving activity must be halted upon observation of a species entering or within the harassment zone for either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met; and

(16) Trained PSOs must be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator.

(b) [Reserved]

§ 217.85 Requirements for monitoring and reporting.

(a) The Navy must submit a Marine Mammal Monitoring Plan to NMFS for approval at least 90 days before the start of construction and abide by the Plan if approved.

(b) The Navy must deploy PSOs as indicated in its approved Marine Mammal Monitoring Plan.

(c) Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following conditions:

(1) PSOs must be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods;

(2) At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;

(3) Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;

(4) Where a team of three or more PSOs are required, a lead PSO or monitoring coordinator must be designated. The lead PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization; and

(5) PSOs must be approved by NMFS prior to beginning any activity subject to these regulations.

(d) PSOs must be trained in marine mammal identification and behaviors.

(e) The Navy must monitor the Level B harassment zones (areas where SPLs are equal to or exceed the 160 dB root-mean-squared (rms) threshold for impact driving and the 120 dB rms threshold during vibratory pile driving) to the maximum extent practicable and the shutdown zones.

(f) The Navy must coordinate with the Center for Whale Research, Orca network, and NMFS to avoid noise exposure of southern resident killer whales. The Navy must shut down in-water activities when southern resident killer whales are observed or reported within or approaching any harassment zone.

(g) The Navy must submit a draft monitoring report to NMFS within 90 calendar days of the completion of each construction year. A draft comprehensive 5-year summary report must also be submitted to NMFS within 90 days of the end of the project. The reports must detail the monitoring protocol and summarize the data recorded during monitoring. Final annual reports and the final comprehensive report must be prepared and submitted within 30 days following resolution of any NMFS comments on the draft report. If no comments are received from NMFS within 30 days of receipt of the draft report, the report must be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. The reports must contain the informational elements described at minimum below including:

(1) Dates and times (begin and end) of all marine mammal monitoring;

(2) Construction activities occurring during each daily observation period, including how many and what type of piles were driven or removed, by what method (*i.e.,* impact or vibratory), the total duration of driving time for each pile (vibratory driving), and number of strikes for each pile (impact driving);

(3) Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), Beaufort sea state, and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance (if less than the harassment zone distance);

(4) Upon observation of a marine mammal, the following information should be collected:

(i) PSO who sighted the animal, observer location, and activity at time of sighting:

(ii) Time of sighting;

(iii) Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;

(iv) Distances and bearings of each marine mammal observed in relation to the pile being driven for each sighting (if pile driving was occurring at time of sighting);

(v) Estimated number of animals (min/max/best);

(vi) Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*);

(vii) Animal's closest point of approach and estimated time spent within the harassment zone;

(viii) Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses to the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

(ix) Detailed information about any implementation of any mitigation (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in the behavior of the animal, if any; and

(x) All PSO datasheets and/or raw sightings data.

(h) In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Navy must report the incident to NMFS Office of Protected Resources (OPR), and to the West Coast Regional Stranding Coordinator, as soon as feasible. If the death or injury was caused by the specified activity, the Navy must immediately cease the specified activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this rule and the LOA issued under § 216.106 of this chapter and § 217.86. The Navy must not resume their activities until notified by NMFS. The report must include the following information:

(1) Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

(2) Species identification (if known) or description of the animal(s) involved;

(3) Condition of the animal(s) (including carcass condition if the animal is dead);

(4) Observed behaviors of the animal(s), if alive;

(5) If available, photographs or video footage of the animal(s); and

(6) General circumstances under which the animal was discovered.

§ 217.86 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the Navy must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, the Navy may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the Navy must apply for and obtain a modification of the LOA as described in § 217.87.

(e) The LOA must set forth the following information:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA must be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA must be published in the **Federal Register** within 30 days of a determination.

§ 217.87 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 217.86 for the activity identified in § 217.80(a) may be renewed or modified upon request by the applicant, provided that:

(1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations; and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 217.86 for the activity identified in § 217.80 (a) may be modified by NMFS under the following circumstances:

(1) NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the

goals of the mitigation and monitoring set forth in the preamble for these regulations;

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from Navy's monitoring from previous years;

(B) Results from other marine mammal and/or sound research or studies; and

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs; and

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS must publish a notice of proposed LOA in the **Federal Register** and solicit public comment; and

(2) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in a LOA issued pursuant to §§ 216.106 of this chapter and 217.86, a LOA may be modified without prior notice or opportunity for public comment. Notification will be published in the **Federal Register** within 30 days of the action.

§§ 217.88–217.89 [Reserved]

[FR Doc. 2024–01558 Filed 1–26–24; 8:45 am]

BILLING CODE 3510–22–P

FEDERAL REGISTER

Vol. 89 Monday,
No. 19 January 29, 2024

Part IV

Department of Commerce

15 CFR Part 7
Taking Additional Steps To Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities; Proposed Rule

DEPARTMENT OF COMMERCE

15 CFR Part 7

[Docket No. 240119–0020]

RIN 0694–AJ35

Taking Additional Steps To Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The Executive order of January 19, 2021, ''Taking Additional Steps To Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities,'' directs the Secretary of Commerce (Secretary) to propose regulations requiring U.S. Infrastructure as a Service (IaaS) providers of IaaS products to verify the identity of their foreign customers, along with procedures for the Secretary to grant exemptions; and authorize special measures to deter foreign malicious cyber actors' use of U.S. IaaS products. The Executive order of October 30, 2023, ''Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence,'' further directs the Secretary to propose regulations that require providers of certain IaaS products to submit a report to the Secretary when a foreign person transacts with that provider or reseller to train a large Artificial Intelligence (AI) model with potential capabilities that could be used in malicious cyber-enabled activity. The Department of Commerce (Department) issues this notice of proposed rulemaking (NPRM) to solicit comment on proposed regulations to implement those Executive orders.

DATES: Comments must be received April 29, 2024.

ADDRESSES: All comments must be submitted by one of the following methods:

- *By the Federal eRulemaking Portal: https://www.regulations.gov* at docket number DOC–2021–0007.
- *By email directly to: IaaScomments@bis.doc.gov.* Include ''E.O. 13984/E.O. 14110: NPRM'' in the subject line.
- *Instructions:* Comments sent by any other method or to any other address or individual, or received after the end of the comment period, may not be considered. For those seeking to submit confidential business information (CBI), please clearly mark such submissions as CBI and submit by email or via the Federal eRulemaking Portal, as instructed above. Each CBI submission must also contain a summary of the CBI, clearly marked as public, in sufficient detail to permit a reasonable understanding of the substance of the information for public consumption. Such summary information will be posted on *regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kellen Moriarty, U.S. Department of Commerce, telephone: (202) 482–1329, email: *IaaScomments@bis.doc.gov.* For media inquiries: Jeremy Horan, Office of Congressional and Public Affairs, Bureau of Industry and Security, U.S. Department of Commerce: *OCPA@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

IaaS products offer customers the ability to run software and store data on servers offered for rent or lease without having to assume the direct maintenance and operating costs of those servers. Foreign malicious cyber actors have utilized U.S. IaaS products to commit intellectual property and sensitive data theft, to engage in covert espionage activities, and to threaten national security by targeting U.S. critical infrastructure. After carrying out such illicit activity, these actors can quickly move to replacement infrastructure offered by U.S. IaaS providers of U.S. IaaS products (''U.S. IaaS providers''). The temporary registration and ease of replacement for such services makes it more difficult for the government to track malicious actors. Additionally, the ability of malicious actors to use foreign-person resellers of U.S. IaaS products (''foreign resellers''), who might not track identity, hinders law enforcement's ability to obtain identifying information about malicious actors through service of compulsory legal process. This shift in adversary tradecraft also challenges the U.S. Government's ability to identify victims of malicious cyber activity and enable specific network defense and remediation efforts. Furthermore, the emergence of large-scale computing infrastructure—to which U.S. IaaS providers and foreign resellers provide access as a service, and which foreign malicious actors could use to train large AI models that can assist or automate their malicious cyber activity—has raised considerable concern about the identities of entities that transact with providers to engage in certain AI training runs.

To address these threats, the President issued E.O. 13984, ''Taking Additional Steps To Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities,'' which provides the Department with authority to require U.S. IaaS providers to verify the identity of foreign users of U.S. IaaS products, to issue standards and procedures that the Department may use to make a finding to exempt IaaS providers from such a requirement, to impose recordkeeping obligations with respect to foreign users of U.S. IaaS products, and to limit certain foreign actors' access to U.S. IaaS products in appropriate circumstances. The President subsequently issued E.O. 14110, ''Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence,'' which calls for the Department to require U.S. IaaS providers to ensure that their foreign resellers verify the identity of foreign users. E.O. 14110 also provides the Department with authority to require U.S. IaaS providers submit a report to the Department whenever a foreign person transacts with them to train a large AI model with potential capabilities that could be used in malicious cyber-enabled activity.

II. Introduction

E.O. 13984 and E.O. 14110 draw upon the President's authority from the Constitution and laws of the United States, including the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (NEA) (50 U.S.C. 1601, *et seq.*), and 3 U.S.C. 301. Section 1 of E.O. 13984 requires the Secretary to propose, for notice and comment, regulations that mandate that U.S. IaaS providers verify the identity of foreign persons that sign up for or maintain accounts that access or utilize U.S. IaaS providers' IaaS products or services (Accounts or Account)—that is, a know-your-customer program or Customer Identification Program (CIP). Under E.O. 13984, such a program must set forth the minimum standards for IaaS providers to verify the identity of a foreign person connected with the opening of an Account or the maintenance of an existing Account. The proposed regulations must include the types of documentation and procedures required to verify the identity of any foreign persons acting as a lessee or sub-lessee of these products or services; the records that IaaS providers must securely maintain regarding a foreign person that obtains an Account; and methods of limiting all third-party access to this collected information, except insofar as such access is otherwise consistent with E.O. 13984 and allowed under applicable law. Moreover, the proposed regulations

must consider the type of Account, methods of opening an Account, and the types of identifying information already available to IaaS providers that help accomplish the objectives of identifying foreign malicious cyber actors using any such products while also avoiding an undue burden on U.S. IaaS providers. They must also allow the Secretary, after consultation with the heads of various Federal agencies, to exempt any IaaS providers or any specific type of Account or lessee from the requirements of any regulation issued pursuant to this section, including due to a finding that the IaaS provider, Account, or lessee complies with security best practices to otherwise deter abuse of IaaS products.

Section 2 of E.O. 13984 requires the proposed regulations to allow the Secretary to use, as necessary, one of two special measures included in E.O. 13984 to require U.S. IaaS providers to prohibit or limit access to Accounts that foreign malicious cyber actors use to conduct malicious cyber-enabled activity. E.O. 13984 authorizes these measures if the Secretary, in consultation with heads of appropriate Federal agencies, finds that reasonable grounds exist to conclude that either: (i) a foreign jurisdiction has a significant number of foreign persons offering U.S. IaaS products that are, in turn, used for malicious cyber-enabled activities, or a significant number of foreign persons directly obtaining U.S. IaaS products and using them in malicious cyber-enabled activities; or (ii) a foreign person has established a pattern of conduct of offering U.S. IaaS products that are used for malicious cyber-enabled activities or directly obtaining U.S. IaaS products for use in malicious cyber-enabled activities. As further explained below, the Department would conduct an investigation before making any such finding under section 2 of E.O. 13894.

One special measure the Secretary could take would be to prohibit or impose conditions on opening or maintaining an Account with any IaaS provider by: (a) a foreign person located in a foreign jurisdiction that has a significant number of foreign persons offering U.S. IaaS products that are used for malicious cyber-enabled activities; or (b) on behalf of such a foreign person. The second special measure would allow the Secretary to prohibit or impose conditions on opening or maintaining an Account in the United States by any IaaS provider for, or on behalf of, a foreign person found to be offering U.S. IaaS products that are used for malicious cyber-enabled activities or on accounts opened directly by foreign persons who are known to obtain U.S. IaaS products for malicious cyber-enabled activities.

Section 4.2(c) of E.O. 14110 requires the Secretary to propose regulations requiring U.S. IaaS providers to submit to the Department a report when a foreign person transacts with the IaaS provider to train a large AI model with potential capabilities that could be used in malicious cyber-enabled activity. The report, at a minimum, must include the identity of the foreign person and the existence of a training run that meets the criteria set forth in this section, as well as any other information specified in regulation. This section of E.O. 14110 also instructs the Secretary to determine the set of technical conditions that a large AI model must possess in order to have the potential capabilities that could be used in malicious cyber-enabled activity and to update that determination as necessary and appropriate.

Section 4.2(c) of this E.O. also requires that U.S. IaaS providers prohibit any foreign reseller of their U.S. IaaS product from providing those products unless such foreign reseller submits to the U.S. IaaS provider a report, which the U.S. IaaS provider must provide to the Department, detailing each instance in which a foreign person transacts with the foreign reseller to use the U.S. IaaS product to train a large AI model with potential capabilities that could be used in malicious cyber-enabled activity. In accordance with this requirement, section 4.2(d) requires the proposed regulations to require U.S. IaaS providers to ensure that foreign resellers of U.S. IaaS products verify the identity of any foreign person that obtains an IaaS account from the foreign resellers. The Department is directed to set forth the minimum standards that a U.S. IaaS provider must require of their foreign resellers to verify the identity of a foreign person who opens an account or maintains an existing account with a foreign reseller.

III. Comments on the Advanced Notice of Proposed Rulemaking

On September 24, 2021, the Department published in the **Federal Register** an advanced notice of proposed rulemaking (ANPRM), 86 FR 53018 (Sep. 24, 2021), soliciting comments on how the Department should implement various provisions of sections 1 and 2 of E.O. 13984, described above, and section 5 of E.O. 13894, which defines several key terms as they relate to the proposed regulations. The Department received twenty-one (21) comments to the ANPRM, which are available on the public rulemaking docket at *https://www.regulations.gov.*

This section summarizes the comments received in response to the ANPRM and explains the Department's proposed regulations to implement sections 1, 2, and 5 of E.O. 13984. The proposed rule text incorporates many of the suggestions the Department received in response to the ANPRM, as set out in more detail below.

(1) Definitions

The Department sought comments on the terms ''United States person'' and ''United States Infrastructure as a Service Provider.'' The commenters who responded to this question argued that the term ''United States person'' should not be interpreted to include foreign subsidiaries of a U.S. IaaS provider, as this extension would exceed the scope of E.O. 13984. Commenters differed about how broadly to interpret the term ''United States Infrastructure as a Service Provider.'' Many requested the Department to interpret this term as broadly as possible to capture as much potential foreign malicious cyber activity as possible. Others believed the Department should interpret the definition narrowly to avoid implicating cloud service providers who offer other cloud-based services, such as Platform as a Service (PaaS) and Software as a Service (SaaS) offerings, but do not offer IaaS products. This proposed rule reflects the Department's consideration of all relevant comments.

(2) Customer Identification Program Regulations and Relevant Exemptions

In the ANPRM, the Department sought information about how to implement requirements for companies to verify a foreign person's identity upon the opening of an Account and while maintaining an existing Account. The Department sought comments on verification procedures and recordkeeping requirements the Department should consider including in regulations.

Many commenters expressed support for implementing data retention and recordkeeping requirements, as directed by E.O. 13984, across a broad spectrum of U.S. IaaS providers' products or services to capture a large portion of malicious cyber-enabled activity on these platforms. While commenters generally supported requiring U.S. IaaS providers to verify the identity of all prospective customers, some suggested that any regulation the Department promulgates in response to E.O. 13984 will be ineffective, as malicious cyber actors are savvy enough to avoid identity verification.

Other commenters requested that the Department's proposed regulations allow U.S. IaaS providers to adopt risk-based approaches to verify the identity of their customers. These approaches, they argued, would allow IaaS providers flexibility to adjust their CIPs to meet new threats and vulnerabilities as they arise. Most commenters agreed that the Department should consider the costs and benefits of these requirements for U.S. IaaS providers and expressed concern that the costs of compliance would be substantial. As discussed further below, the Department has proposed standards and procedures that take into consideration the size, complexity, and risk profile of the IaaS provider and its product offerings.

The Department requested comments on current practices, if any, that U.S. IaaS providers use to verify the identity of their customers and the burden that any new regulations would impose on these IaaS providers. Commenters reported that there is no uniform set of data that U.S. IaaS providers collect before opening an Account for a customer, but email addresses and payment methods are normally required. Most commenters indicated that any requirements in this proposed regulation would impose burdens on U.S. IaaS providers, and that the Department should weigh this burden against the anticipated benefit any regulations mandating identity verification would have on national security. The Department acknowledges that this rulemaking will impose compliance costs for at least some U.S. IaaS providers and has addressed these costs in the regulatory impact analysis included in the preamble of this proposed rule.

The Department asked about the impact any proposed regulations would have on data protection and security, especially considering the European Union General Data Protection Regulation (GDPR) and the California Consumer Privacy Act (CCPA). Many commenters encouraged the Department to propose regulations that would enable U.S. law enforcement officials to gain access to data stored by domain name registries and registrars that has proven more difficult since the enactment of the GDPR. Others focused on ensuring that the processing of customers' data to carry out the provisions of any proposed regulation would be consistent with the GDPR or CCPA. Still others requested that any proposed regulation not frustrate ongoing negotiations to open the flow of data between foreign countries and the United States. The Department acknowledges these comments and has sought to ensure these proposed regulations are consistent with national and international obligations, either because the specific information requested is not protected, or because the need for data collection falls into relevant exemptions.

The Department sought comments on how to implement the authority, granted by section 1(c) of E.O. 13984, to provide exemptions from the requirements of any regulations issued pursuant to E.O. 13894. Many commenters expressed hope that the Department could promulgate best practices for IaaS providers to adopt or strive to meet in order to avoid compliance costs associated with any proposed regulations. Others asked the Department to tailor these regulations to apply only to those products and services most used by foreign malicious cyber actors. The Department is proposing procedures for IaaS providers to obtain exemptions from the CIP requirements. Under these procedures, a U.S. IaaS provider seeking to obtain an exemption for itself, a specific type of account or lessee, or its foreign reseller, would provide a written submission to the Secretary outlining its program to comply with security best practices to deter the abuse of U.S. IaaS products. A finding by the Secretary that the program incorporates such best practices would exempt an IaaS provider from the CIP requirements in section 1(a) of E.O. 13984.

Some commenters urged the Department not to include exemptions, believing this practice to be contrary to the intent of E.O. 13984 to address the use of U.S. IaaS products for malicious cyber-enabled activities. In these proposed regulations, the Department has endeavored to provide a pathway to enable U.S. IaaS providers to apply for an exemption where such exemption is warranted while still accomplishing the policy goals of E.O. 13984. The Department welcomes comments and feedback on its proposed approach, as well as on potential standards and best practices that could deter the abuse of U.S. IaaS products by malicious actors.

(3) Special Measures Restrictions

In the ANPRM, the Department sought comments on procedures the Secretary should use to decide when and how to impose a special measure. The Department asked what sources of information the Secretary should consider, how the Secretary should publish any findings, how long the special measure's effects should last, and how to determine which special measure to invoke.

Commenters encouraged the Department to consider how to leverage existing authorities and procedures, such as the Department's existing authority to prohibit certain Information and Communications Technology and Services (ICTS) transactions or the Department of the Treasury's Office of Foreign Assets Control's (OFAC) sanctions procedures, to minimize the burden of these special measures. Other commenters indicated that the threat of these special measures will result in lost U.S. business, as foreign persons may move to IaaS products and services furnished from companies headquartered in foreign countries. Still others expressed doubt that these special measures would accomplish their intended purpose.

In crafting these proposed regulations regarding special measures, the Department looked to a variety of sources, including OFAC's sanction procedures, and has sought to minimize the costs to U.S. businesses while still meeting the requirements of E.O. 13984.

IV. Proposed Rule and Request for Comments

Following consideration of the comments received in response to the ANPRM, the Department is proposing regulations to implement sections 1, 2, and 5 of E.O. 13984 and the applicable provisions of E.O. 14110. The provisions implementing E.O. 13984 would apply to U.S. IaaS providers that offer U.S. IaaS products, as defined in E.O. 13984 and this proposed rule. ''U.S. IaaS providers'' includes any U.S. person that offers IaaS products, to include both direct providers of U.S. IaaS products and any of their U.S. resellers.

To implement section 1 of E.O. 13984, the Department proposes to require providers to verify the identity of foreign customers. To implement section 2 of E.O. 13984, the Department proposes procedures for the Secretary's decision-making process regarding whether and how to issue determinations about special measures. Regarding the definitions in section 5 of E.O. 13984, the Department proposes interpretations of terms defined in the E.O. and proposes definitions for several additional key terms.

To implement section 4.2(c) of E.O. 14110, the Department proposes regulations related to foreign resellers of U.S. IaaS products that would apply to U.S. IaaS providers as defined in E.O. 13984 and this proposed rule. The Department uses ''foreign reseller'' to mean any foreign person who has established an account with a U.S. IaaS provider to provide IaaS products

subsequently, in whole or in part, to a third party.

To implement section 4.2(c) of this E.O., the Department proposes a process for U.S IaaS providers to report to the Department when they have knowledge they will engage or have engaged in a transaction with a foreign person that could allow that foreign person to train a large AI model with potential capabilities that could be used in malicious cyber-enabled activity. To implement section 4.2(d) of this E.O., the Department proposes regulations that would require U.S. IaaS providers to require foreign resellers of their U.S. IaaS products to verify the identity of foreign persons who open or maintain an account with a foreign reseller.

The Department proposes definitions for terms used within E.O. 14110, including a definition for a ''large AI model with potential capabilities that could be used in malicious cyber-enabled activity.'' Based on this definition, the Secretary will determine, as required by E.O. 14110, the set of technical conditions that a large AI model must possess in order to have the potential capabilities that could be used in malicious cyber-enabled activity. That determination will be a binding interpretation of what constitutes a ''large AI model with potential capabilities that could be used in malicious cyber-enabled activity.'' As this area of technology is fast developing, and as directed by E.O. 14110, the Secretary will update, as ''necessary and appropriate,'' the initial determination of which set of technical conditions meet the definition. The Department will publish these binding updates to the technical condition determinations in the **Federal Register**. The Department requests comments on all aspects of this proposed rule.

(1) Definitions

This proposed rule adopts several definitions found in section 5 of E.O. 13984, including ''entity,'' ''foreign jurisdiction,'' ''foreign person,'' ''Infrastructure as a Service Account,'' ''Infrastructure as a Service product,'' ''Malicious cyber-enabled activities,'' ''person,'' ''Reseller Account,'' ''United States person,'' and ''U.S. Infrastructure as a Service product.'' In addition, this proposed rule clarifies the definition of ''U.S. Infrastructure as a Service provider'' found in section 5 of E.O. 13984. The proposed rule also adopts several definitions found in section 3 of E.O. 14110, including ''artificial intelligence'' or ''AI,'' ''AI model,'' ''AI system,'' ''dual-use foundation model,'' ''foreign reseller,'' ''generative AI,'' ''integer operation,'' ''machine learning,'' and ''model weight.'' Finally, the Department proposes several definitions of key terms in this rule, including ''customer'' and ''beneficial owner,'' as well as definitions for terms such as ''availability,'' ''confidentiality,'' ''Customer Identification Program,'' ''Department,'' ''disassociability,'' ''foreign beneficial owner,'' ''foreign customer,'' ''foreign reseller, ''individual,'' ''integrity,'' ''knowledge,'' ''large AI model with potential capabilities that could be used in malicious cyber-enabled activity,'' ''manageability,'' ''predictability,'' ''privacy-preserving data sharing and analytics,'' ''Red Flag,'' ''reseller,'' ''risk-based,'' ''Secretary,'' ''threat landscape,'' ''training,'' ''training run,'' and ''United States reseller.'' Some of the proposed definitions are discussed below, although the Department welcomes comments on all definitions in this proposed rule.

A. Availability

The Department proposes to define ''availability'' as ensuring timely and reliable access to and use of information and information systems by an authorized person or system, including resources provided as part of a product or service.

B. Beneficial Owner

E.O. 13984 requires verification of the identity of foreign persons that obtain accounts, and it defines ''person'' as ''an individual or entity.'' Therefore, the Department proposes to require U.S. IaaS providers to collect the same identifying information and verify the identity of beneficial owners of Accounts owned or maintained by entities. Under the proposed rule, a beneficial owner is defined as an individual who either: (1) exercises substantial control over a Customer, or (2) owns or controls at least 25 percent of the ownership interests of a Customer. The Department seeks comments on these definitions, including the meaning of ''substantial control.''

C. Confidentiality

The Department proposes to define ''confidentiality'' as preserving authorized restrictions on information access and disclosure, including means for protecting personal privacy and proprietary information.

D. Customer Identification Program

The Department proposes to define ''Customer Identification Program'' as a program created by a U.S. IaaS provider or foreign reseller that dictates how the IaaS provider will collect identifying information about its customers, how the IaaS provider will verify the identity of its foreign customers, store and maintain identifying information, and notify its customers about the disclosure of identifying information.

E. Department

The Department proposes to define ''Department'' as the United States Department of Commerce.

F. Disassociability

The Department proposes to define ''disassociability'' as enabling the processing of data or events without association to individuals or devices beyond the operational requirements of the system.

G. Foreign Beneficial Owner

The Department proposes to define ''foreign beneficial owner'' as a beneficial owner that is not a United States person.

H. Foreign Customer

The Department proposes to define ''foreign customer'' as a customer that is not a United States person.

I. Foreign Reseller

The Department proposes to adopt the definition from E.O. 14110 and define ''foreign reseller'' to mean a foreign person who has established an IaaS Account to provide IaaS subsequently, in whole or in part, to a third party. This is consistent with the definition for foreign reseller included in E.O. 14110.

J. Individual

The Department proposes to define ''individual'' as any natural person.

K. Infrastructure as a Service Product

This proposed definition adopts the E.O. 13984 definition for ''Infrastructure as a Service product'', which is any product or service offered to a consumer, including complimentary or ''trial'' offerings, that provides processing, storage, networks, or other fundamental computing resources, and with which the consumer is able to deploy and run software that is not predefined, including operating systems and applications. The consumer typically does not manage or control most of the underlying hardware but has control over the operating systems, storage, and any deployed applications. The term is inclusive of ''managed'' products or services, in which the provider is responsible for some aspects of system configuration or maintenance, and ''unmanaged'' products or services, in which the provider is only responsible for ensuring that the

product is available to the consumer. The term is also inclusive of ''virtualized'' products and services, in which the computing resources of a physical machine are split between virtualized computers accessible over the internet (*e.g.,* ''virtual private servers''), and ''dedicated'' products or services in which the total computing resources of a physical machine are provided to a single person (*e.g.,* ''baremetal'' servers).

The Department believes that this expansive definition will allow for regulations to apply to a broad range of IaaS product offerings that can be used by foreign malicious cyber actors to carry out attacks on the United States or United States persons. Note that this definition includes all service offerings for which a consumer does not manage or control the underlying hardware, but rather contracts with a third party to provide access to this hardware. This definition would capture services such as content delivery networks, proxy services, and domain name resolution services. It does not, however, capture domain name registration services for which a consumer registers a specific domain name with a third party, as that third party does not provide any processing, storage, network, or other fundamental computing resource to the consumer. The Department seeks comment on the categories of products or services that fall within this definition.

L. Integrity

The Department proposes to define ''integrity'' as guarding against improper information modification or destruction and includes ensuring information non-repudiation and authenticity.

M. Knowledge

The Department proposes to define ''knowledge'' as knowledge of a circumstance (the term may be a variant, such as ''know,'' ''reason to know,'' or ''reason to believe'') including not only positive knowledge that the circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person's willful avoidance of facts. This definition is similar to that in the Department's Export Administration Regulations.

N. Large AI Model With Potential Capabilities That Could Be Used in Malicious Cyber-Enabled Activity

The Department proposes to define ''large AI model with potential capabilities that could be used in malicious cyber-enabled activity'' as any AI model with the technical conditions of a dual-use foundation model, or that otherwise has technical parameters of concern, that has capabilities that could be used to aid or automate aspects of malicious cyber-enabled activity, including but not limited to social engineering attacks, vulnerability discovery, denial-of-service attacks, data poisoning, target selection and prioritization, disinformation or misinformation generation and/or propagation, and remote command-and-control, as necessary and appropriate of cyber operations. The Department seeks comment on this proposed definition.

E.O. 14110 also instructs the Secretary to determine and to update, ''as necessary and appropriate,'' the set of technical conditions for a ''large AI model to have potential capabilities that could be used in malicious cyber-enabled activity.'' Based on the above definition, the Secretary will make this initial determination and any necessary and appropriate updates to it which the Department will publish in the **Federal Register**. Such technical conditions may include the compute used to pre-train the model exceeding a specified quantity.

The Department seeks comment on the proposed definition, as well as on the Secretarial process for determining and, because of rapidly advancing technology, updating the set of specific technical conditions necessary for a large AI model to meet the definition and have the potential capabilities that could be used in malicious cyber-enabled activities.

O. Manageability

The Department proposes to define ''manageability'' as providing the capability for granular administration of data, including alteration, deletion, and selective disclosure.

P. Predictability

The Department proposes to define ''predictability'' as enabling reliable assumptions by individuals, owners, and operators about data and their processing by a system, product, or service.

Q. Privacy-Preserving Data Sharing and Analytics

The Department proposes to define ''privacy-preserving data sharing and analytics'' as the use of privacy-enhancing technologies to achieve disassociability, predictability, manageability, and confidentiality when performing analytics on data.

R. Red Flag

The Department proposes to define ''Red Flag'' as a pattern, practice, or specific activity that indicates the possible existence of malicious cyber-enabled activities.

S. Reseller

The Department proposes to define ''reseller'' as a person that maintains a Reseller Account.

T. Risk-Based

The Department proposes to define ''risk-based'' as based on an assessment of the relevant risks, including those presented by the various types of service offerings maintained by an IaaS provider, the methods used to open an Account, the varying types of identifying information available to an IaaS provider, and an IaaS provider's customer base.

U. Secretary

The Department proposes to define ''Secretary'' as the Secretary of Commerce or the Secretary's designee.

V. Threat Landscape

The Department proposes to define ''threat landscape'' as the broad environment of geopolitical, economic, and technological factors that must be evaluated when developing risk-based procedures that enable an IaaS provider to form a reasonable belief of the true identity of each Account owner and beneficial owner to deter facilitating significant malicious cyber-enabled activities.

W. Training or Training Run

The Department proposes to define ''training'' or ''training run'' as any process by which an AI model learns from data through the use of computing power.

X. United States Infrastructure as a Service Product

The Department proposes to clarify the E.O.'s definition of ''United States Infrastructure as a Service product.'' The E.O. defines this term as ''any Infrastructure as a Service Product owned by any United States person or operated within the territory of the United States of America.'' The Department considers Reseller Accounts as IaaS products.

Y. United States Infrastructure as a Service Provider

E.O. 13984 defines ''United States Infrastructure as a Service provider'' as ''any United States Person that offers any Infrastructure as a Service product.'' The Department notes that this

definition of ''United States Infrastructure as a Service provider'' includes any United States person that is a direct provider of U.S. IaaS products and any of their U.S. resellers. The Department proposes to consider U.S. resellers of U.S. IaaS products as IaaS providers subject to these proposed regulations.

In response to the ANPRM, several commenters suggested that the Department clarify whether this term includes foreign subsidiaries of United States persons. Specifically, these commenters believed including foreign subsidiaries of United States persons in this definition would exceed the scope of the E.O., which focuses on threats to the United States from U.S. IaaS products, not those offered by foreign subsidiaries. The Department proposes to clarify that a foreign subsidiary of a U.S. IaaS provider is not considered to be a ''United States Infrastructure as a Service provider.''

E.O. 13984 requires the Secretary to propose regulations to require providers to ''verify the identity of a foreign person in connection with the opening of an Account or the maintenance of an existing Account.'' It requires that any regulations set out the types of documentation or procedures ''required to verify the identity of any foreign person acting as a lessee or sub-lessee of these products or services.'' The Department proposes to consider U.S. resellers of U.S. IaaS products as U.S. IaaS providers subject to these proposed regulations.

(2) Customer Identification Program Regulations and Relevant Exemptions

Under this proposed rule, U.S. IaaS providers and their foreign resellers would maintain CIPs, perform effective customer verification, and maintain identifying information about their foreign customers, which is critical to combating malicious cyber-enabled activities. The Department proposes to require that all U.S. IaaS providers implement their own CIPs, require CIPs of their foreign resellers, and report to the Department on these CIPs. The Department will consider allowing U.S. IaaS providers an adjustment period to implement some provisions of this proposed regulation and notify the Department accordingly, and anticipates that compliance would be required within one year of the date of publication of any final rule.

Accordingly, the Department proposes to require IaaS providers develop their own risk-based CIP. Taking into consideration the different types of IaaS Accounts, the different methods used to open the Accounts, and the types of information available to identify foreign malicious cyber actors, while avoiding the imposition of an undue burden on providers, the Department proposes to allow each provider to create a CIP that matches its unique service offerings and customer bases. Provided that IaaS providers meet certain minimum requirements in their CIPs, providers can create CIPs that are flexible and minimally burdensome to their business operations.

The Department proposes to require U.S. resellers of U.S. IaaS Accounts to establish CIPs and identity verification procedures to be used any time they act as a reseller for U.S. IaaS products. The CIPs of such U.S. resellers would be subject to the minimum standards in this proposed rule. U.S. resellers would be responsible for establishing the identity of their potential customers, including all prospective beneficial owners of these Accounts, and determining whether they are U.S. persons. U.S. resellers would also be responsible for verifying the identity of their foreign customers under this proposed rule. The Department requests comments on whether resellers that are small businesses might find it more difficult to develop a CIP. The Department proposes to allow U.S. resellers, by agreement with a U.S. IaaS provider, to reference, use, rely on, or adopt the CIPs created by the U.S. IaaS provider to help minimize any compliance burdens on the reseller. The Department further seeks comments on whether resellers currently request identifying information from their customers and how these resellers verify the identity of their prospective foreign customers.

The Department seeks comments on whether to require IaaS providers to conduct third-party or internal audits to confirm their compliance with CIP requirements in the proposed rule. The Department also seeks comments on whether the Department should receive and approve all CIPs. The Department additionally seeks comments on whether the rulemaking should require U.S. IaaS providers to submit Red Flags either to the Department or to another relevant department or agency. Below, the Department explains additional specific requirements for CIPs.

A. Data Collection Requirements

Under the proposed rule, each CIP must include procedures that U.S. IaaS providers and their foreign resellers will use to collect information from all covered existing and prospective customers, that is, those who have applied for an account. At a minimum, the following data would be collected: a customer's name, address, the means and source of payment for each customer's Account, email addresses and telephone numbers, and internet protocol (IP) addresses used for access or administration of the Account. IaaS providers may alter their CIPs to require additional information from prospective customers that is necessary to verify the identity of any foreign person, but all CIPs must, at a minimum, collect the previously listed data. The Department proposes omitting a requirement for collecting and verifying national identification numbers because, based on public feedback, the Department believes that national identification number verification would be unduly burdensome and would not be necessary to verify identity. The Department seeks comments on whether other forms of identification, such as digital or technology-based identification, should be included as an acceptable means by which IaaS providers may verify customers' identities, and if companies have privacy-protecting or privacy-enhancing technologies to verify this same information or other alternatives that can effectively achieve identity verification.

The Department believes that many U.S. IaaS providers and their foreign resellers already collect this information from their customers, and that the proposed rule would set a baseline for data collection that would help all providers effectively verify and document the identities of their customers. The Department seeks comments on the costs and burdens associated with this proposed requirement and whether the Department should include additional data collection in a baseline requirement for CIPs. The Department proposes a requirement that providers make a written description of their CIPs available for inspection by the Department, which may identify specific shortcomings for providers to resolve. The Department seeks comment on this proposal.

The Department is proposing to require that CIPs account for the collection of identifying information about the actual Account owner and all beneficial owners of the Account. Specifically, the proposed required description of the CIP would specify how providers would ensure that all beneficial owners of an Account at its inception and any new beneficial owner added to the Account undergo the same identification procedures as the person opening the Account. The Department seeks comment on this approach.

B. Prospective Customers From the United States

E.O. 13984 addresses threats to U.S. IaaS products and services by foreign malicious cyber actors. Section 1 of the E.O. therefore requires the Department to propose regulations to require U.S. IaaS providers to verify the identity of ''a foreign person that obtains an Account.''

Therefore, the Department proposes to require U.S. IaaS providers to verify the identity of foreign persons who obtain an Account from providers and to require the same of their foreign resellers. Although providers would be required to create a CIP that includes the minimum data collection requirements for all prospective customers, they would not be required to verify the identity of customers with Accounts opened by or on behalf of a U.S. person, unless a foreign beneficial owner is added to the Account or the Account or a portion of the Account is resold to a foreign person.

The Department seeks comments about whether the proposed data collection requirements above would enable providers to accurately distinguish foreign current and prospective customers from others. If these proposed requirements are inadequate, what additional required information should be included in the CIPs to aid in these efforts? The Department also seeks comments on the availability of secure data deletion standards and whether to require their implementation for Accounts determined to be opened, owned, and accessible exclusively by U.S. persons.

C. Identity Verification

The Department proposes to require that CIPs include procedures to ensure that U.S. IaaS providers and their foreign resellers verify the identity of all foreign Account owners and foreign beneficial owners. Under the proposed rule, providers may craft their own procedures and methods to verify the identity of their prospective foreign customers and beneficial owners, provided that their CIPs include risk-based procedures that enable the provider to form a reasonable belief about the true identity of each customer and beneficial owner. These procedures must be based on a provider's assessment of the relevant risks, including those presented by the various types of service offerings maintained by the provider, the methods used to open an Account, the varying types of identifying information available to the provider, and the provider's customer base. Under the proposed rule, the CIP must establish whether a provider will use documentary or non-documentary verification or a combination of both. It must establish how a provider will verify the identity of its customers when the customer is unable to produce the requested documents. The Department believes this flexibility would minimize the burden placed on providers by these regulations. The Department seeks comments on this risk-based approach to allow providers to form reasonable beliefs of the true identity of each customer and beneficial owner and on what information they would need to collect to accomplish this.

Under the proposed rule, the CIP must include steps a provider would take if it is unable to verify the identity of any customer, including refusing to open an Account and/or additional monitoring pending attempts at verification. It must further set out the terms under which a customer may continue to have access to an Account while the provider attempts to verify the identity of the customer, and when a provider would close an Account after attempts to verify a customer's identity have failed. Additionally, it must describe measures for redress and issue management to address situations in which legitimate customers may fail identity verification, or in which their information was compromised and a fraudulent account established. The Department seeks comments on whether to require specific verification methods, such as email or payment verification, for all prospective customers. The Department seeks comments on whether the Department should allow providers to grant potential customers access to Accounts prior to successful identity verification. The Department seeks comments on whether including reference to National Institute of Standards and Technology (NIST) Special Publication (SP) 800–63 regarding digital identity guidelines would help IaaS providers meet requirements for identity verification.

D. Recordkeeping

The Department proposes to require U.S. IaaS provider and foreign reseller of U.S. IaaS product CIPs to include procedures for maintaining, protecting, and obtaining access to records of relevant customer information accessed in the process of verifying customer identities. At a minimum, this record must include a description of the identity evidence and attributes provided by the customer when the customer first attempted to open an Account, a description of the methods and results of any measures undertaken to verify customer identity, and a description of the resolution of any substantive discrepancy discovered when verifying the identifying information. The proposed rule leaves to IaaS providers the discretion to design their own recordkeeping procedures, so long as these procedures obtain this minimum information.

The Department proposes to require that CIPs of U.S. IaaS providers and their foreign reseller include requirements to securely maintain these records and describe measures taken to ensure that the information is secure. The proposed regulations would require that IaaS providers limit access to any records or documents created, retained, or accessed pursuant to these regulations by any third parties or IaaS provider employees without a need-to-know basis for obtaining this access. However, no such requirement should be read to limit IaaS providers' ability to share security best practices and threat information with other IaaS providers, relevant consortia, or the U.S. Government as needed and consistent with applicable law. The Department seeks comments on the feasibility of this approach and the costs of doing so. The Department further seeks comments on whether there currently exist best practices for the maintenance, storage, and security of customer identifying information.

The Department proposes to require that U.S. IaaS providers retain these records for a period of two years after the date upon which an Account was last accessed or closed. The Department preliminarily determines that a two-year period is necessary to allow law enforcement the ability to gain access to this information should an Account be suspected of hosting malicious cyber-enabled activity. The Department seeks comments on the burdens to IaaS providers of maintaining these records for two years, and whether there are alternative ways to allow for both immediate and long-term access to customer information should an Account be used for malicious cyber-enabled activity. The Department seeks comments on whether to require that CIPs include procedures to address situations where an Account that has been inactive for more than two years is subsequently accessed by a foreign person, and whether to require that IaaS providers request that the foreign person provide the enumerated identifying information again in these circumstances.

E. Ensuring Verification for Foreign Resellers

As directed in E.O. 14110, the Department proposes to require that U.S IaaS providers only initiate or continue a reseller relationship with foreign resellers of U.S. IaaS products that maintain and implement a CIP that meets the requirements for CIPs of U.S. IaaS providers in this proposed rule. The Department recognizes that it will take U.S. IaaS providers time to educate, coordinate, and collect information from their foreign resellers on CIP requirements and therefore anticipates allowing U.S. IaaS providers up to one year to implement such final provisions and notify the Department accordingly. Under this proposed rule, U.S. IaaS providers would be required to furnish a copy of any foreign reseller's CIP to the Department within ten calendar days following a request for the same from the Department. The Department seeks comments on the potential challenges that U.S. IaaS providers would face when collecting this information from their foreign resellers of U.S. IaaS products. The proposed rule would also require that, upon receipt of evidence that indicates the failure of a foreign reseller to maintain or implement a CIP or that indicates malicious cyber-enabled activity, U.S. IaaS providers must report malicious cyber-enabled activity and close accounts associated with the activity and must terminate the reseller relationship within 30 calendar days. The Department seeks comments on the challenges U.S. IaaS providers would face in investigating and remediating malicious cyber activity by foreign resellers, as well as the contractual difficulties posed by terminating the relationship with a non-compliant foreign reseller. The Department further seeks comments on the extent to which there currently exist customer identification and verification practices which U.S. IaaS providers require their foreign resellers to use.

F. Customer Identification Program Updates and Certifications

The Department proposes to require that U.S. IaaS providers submit to the Department certain information about their CIPs and their foreign resellers' CIPs, to include procedures on verifying customer identity and detecting malicious cyber activity, as well as information and data on their provision of IaaS products. The Department further proposes to require that U.S. IaaS providers and their foreign resellers update their CIPs annually to protect against new cyber threats and vulnerabilities, as well as to increase efficiency and data security, and to certify to the Department that such annual updates have occurred. The Department proposes that U.S. IaaS providers must notify the Department of any updates to their CIP or any CIP of their foreign resellers. In these annual certifications, providers would also attest to the Department that, since the date of last certification, they have reviewed their CIPs and updated their CIPs to account for any changes in their service offerings and for changes to the threat landscape. The certification would include an attestation that the current CIP complies with the provisions of the proposed rule. This attestation would require the provider to indicate the frequency with which it was unable to verify the identity of a foreign customer in the prior calendar year and record the resolution for each of those situations. The Department seeks comments on the usefulness and feasibility of such attestation and whether the Department should require additional information in these certifications, the procedures for submission of such certifications, and whether the Department should require these certifications more or less frequently than annually. The Department seeks comments on whether there currently exist best practices for customer identification and verification that providers can use as a model for their CIPs.

G. Exemptions

Section 1(c) of E.O. 13984 permits the Secretary, in accordance with such standards and procedures as the Secretary may delineate and, in consultation with the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, and the Director of National Intelligence, to exempt any U.S. IaaS provider, or any specific type of Account or lessee, from the requirements of any regulation issued pursuant to the section. Such standards and procedures may include a finding by the Secretary that a provider, Account, or lessee complies with security best practices to otherwise deter abuse of IaaS products. Section 4.2(d)(iii) of E.O. 14110 also provides that the Secretary may ''exempt a United States IaaS Provider with respect to any specific foreign reseller of their United States IaaS Products, or with respect to any specific type of account or lessee, from the requirements of any regulation issued pursuant to this subsection,'' that section being related to CIP requirements for foreign resellers of U.S. IaaS products.

This NPRM proposes standards and procedures for exemptions from CIP requirements in §§ 7.302 through 7.305 for U.S. IaaS providers and with regard to any of their specific foreign resellers. The regulations propose that providers seeking an exemption submit a written request electronically. The Department anticipates that the final rule would designate an email address to receive such requests. The Department seeks comments on these standards and procedures in proposed § 7.306. The Department seeks comment on whether there exist security best practices to deter abuse of U.S. IaaS products that the Secretary may reference in the future to authorize exemptions from these regulations, including but not limited to improving event log management to generate, safeguard, and retain logs of IaaS providers' system and network events, both to improve incident detection and to aid in incident response and recovery activities. The Department also seeks comments on whether there are appropriate safe harbor activities that might form the basis of an exemption program.

(3) Special Measures Regulations

A. Special Measures Requirements

The Department proposes regulations to implement the authority provided to the Secretary to take either of the special measures enumerated in E.O. 13984, should the Secretary determine that reasonable grounds exist for concluding that a jurisdiction or person outside of the U.S. ''has any significant number of foreign persons offering U.S. IaaS products that are used for malicious cyber-enabled activities or any significant number of foreign persons directly obtaining U.S. IaaS products for use in malicious cyber-enabled activities.'' The Department proposes to allow the Department to initiate investigations of its own accord or accept referrals from other executive branch agencies or providers to evaluate evidence about a particular foreign jurisdiction or person to determine whether to impose a special measure. The Department would then assess the information in its possession and information available from public and other sources about a foreign person or foreign jurisdiction to determine whether imposing a special measure would be appropriate. Should the Secretary determine that the evidence warrants the imposition of a special measure, the Secretary would issue a determination in the **Federal Register**, to take effect 30 days after publication, that would set out the reasonable grounds for this determination and

would indicate which special measure the Secretary would intend to use.

B. Reasonable Grounds Determination

E.O. 13984 provides that, when determining whether a particular foreign jurisdiction ''has any significant number of foreign persons offering U.S. IaaS products that are used for malicious cyber-enabled activities or any significant number of foreign persons directly obtaining U.S. IaaS products for use in malicious cyber-enabled activities,'' the Secretary must consider, among other relevant information: (1) evidence that foreign malicious cyber actors have obtained U.S. IaaS products in that foreign jurisdiction, including whether such actors obtained such U.S. IaaS products through reseller accounts; (2) the extent to which that foreign jurisdiction is a source of malicious cyber-enabled activities; and (3) whether the U.S. has a mutual legal assistance treaty with that foreign jurisdiction, and the experience of U.S. law enforcement officials in obtaining information about activities involving U.S. IaaS products originating in or routed through such foreign jurisdiction.

With respect to foreign persons, the Secretary must assess: (1) the extent to which a foreign person uses U.S. IaaS products to conduct, facilitate, or promote malicious cyber-enabled activities; (2) the extent to which U.S. IaaS products offered by a foreign person are used to facilitate or promote malicious cyber-enabled activities; (3) the extent to which U.S. IaaS products offered by a foreign person are used for legitimate business purposes in the jurisdiction; and (4) the extent to which actions short of the imposition on special measures are sufficient, with respect to transactions involving the foreign person offering U.S. IaaS products, to guard against malicious cyber-enabled activities. Finally, the Secretary may analyze any information gleaned through the Department's existing authority to review ICTS transactions pursuant to its authority derived from Executive Order 13873 of May 17, 2019, ''Securing the Information and Communications Technology and Services Supply Chains'' (84 FR 22689). The Department seeks comments on any additional relevant factors the Secretary should consider.

C. Choosing a Special Measure

The Department proposes to require that the Secretary's investigation process include consultation with the agencies referenced in E.O. 13984, namely the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and other heads of other executive departments and agencies as the Secretary deems appropriate, to determine which special measure to impose. This consultation would include a review of the available evidence to determine whether to impose a special measure against a foreign jurisdiction or against a foreign person; a consideration of whether the imposition of the special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for providers; and a determination of the extent to which the imposition of a special measure or the timing of the special measure would have a significant adverse effect on legitimate business activities involving the foreign jurisdiction or foreign person. Finally, the determination would include an assessment of the effect of any special measure on U.S. supply chains, public health or safety, national security, law enforcement investigations, or foreign policy. The Department seeks comments on whether additional considerations should be included before the Secretary would choose a special measure.

(3) AI Training Reporting Requirements

Section 4.2 (c)(i) of E.O. 14110 instructs the Secretary to ''propose regulations that require United States IaaS Providers to submit a report to the Secretary of Commerce when a foreign person transacts with that United States IaaS provider to train a large AI model with potential capabilities that could be used in malicious cyber-enabled activity.'' Such report shall include, at a minimum, the identity of the foreign person and the existence of any training run of an AI model meeting the criteria set forth in E.O. 14110 or otherwise determined by the Secretary, and other information as identified by the Secretary. In addition, section 4.2(c)(ii) of E.O. 14110 directs that U.S. IaaS providers must be required to prohibit foreign resellers of their U.S. IaaS products from providing those products unless the foreign resellers submit such reports to the provider, which the provider must provide to the Secretary.

This proposed rule would require such providers to report to the Department information on instances of training runs by foreign persons for large AI models with potential capabilities that could be used in malicious cyber-enabled activity. Reportable information includes the identifying information about the training run (*i.e.,* the customer's name, address, the means and source of payment for the customer's Account, email addresses, telephone numbers, and IP addresses) and the existence of the training run. The Department requests comment on what additional information, if any, the Department should require providers report.

Section 4.2(c)(iii) instructs the Secretary to ''determine the set of technical conditions for a large AI model to have potential capabilities that could be used in malicious cyber-enabled activity, and revise that determination as necessary.''

The Department has proposed that a model meets the definition of a ''large AI model with potential capabilities that could be used in malicious cyber-enabled activity'' if it meets technical conditions issued by the Department in interpretive rules published in the **Federal Register**. The Department will update the technical conditions, based on technological advancements, as necessary and appropriate, as directed by E.O. 14110, through interpretive rules published in the **Federal Register**. The Department seeks comment on the definition of a ''large AI model that could be used in malicious cyber-enabled activity,'' and on what Red Flags, if any, the Department should adopt that would create a presumption that a foreign person is training a model with the technical conditions set out in E.O. 14110.

(4) Compliance and Enforcement

Though issued pursuant to the President's authority derived from IEEPA, E.O. 13984 is silent as to penalties for noncompliance. The Department proposes to clarify that any person who commits a violation of this proposed rule, if finalized, may be liable to the United States for civil or criminal penalties under IEEPA. Although the Department currently has penalty provisions under 15 CFR 7.200 for violations of Final Determinations issued pursuant to the Department's ICTS authorities pursuant to the IEEPA, the Department believes it is important to have a new enforcement section specific to violations of these IaaS-related provisions. Accordingly, the Department is adding a section on enforcement, which lists civil and criminal penalties, and the acts particular to these IaaS-related provisions that will result in those penalties. For example, the new enforcement section specifies that it is a violation to fail to create a CIP, or to fail to file with the Department a CIP certification, or fail to seek reauthorization for such CIPs on an

annual basis. It is also a violation to fail to inform the Department about a covered IaaS transaction that might result in a customer obtaining or using a large AI model with potential capabilities that could be used in malicious cyber-enabled activity when an IaaS provider knows or should know of such transaction.

Regarding penalties for violations, whether a violation results in a civil or criminal penalty will depend largely on the nature of the offense. For example, intentionally or knowingly violating a provision of these regulations could result in criminal penalties, while unintentional violations are more likely to result in civil penalties. The Department seeks comments on this approach.

V. Classification

a. Executive Order 12866

This rulemaking has been determined to be a significant action under Executive Order 12866, as amended by Executive Order 14094.

b. Regulatory Impact Analysis

As required by Executive Order 12866, and the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* the Department of Commerce has prepared the following regulatory impact analysis (RIA) and initial regulatory flexibility analysis (IRFA) for this proposed rule.

1. Need for Regulatory Action

The reasons for and need for this action are summarized in this preamble. This rule is being proposed pursuant to E.O. 13984, ''Taking Additional Steps To Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities,'' and E.O. 14110, ''Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence.'' As stated in E.O. 13984, ''Foreign actors use United States IaaS products for a variety of tasks in carrying out malicious cyber-enabled activities, which makes it extremely difficult for United States officials to track and obtain information through legal process before these foreign actors transition to replacement infrastructure and destroy evidence of their prior activities; foreign resellers of United States [IaaS] products make it easier for foreign actors to access these products and evade detection.'' Furthermore, E.O. 14011 states that ''irresponsible use could exacerbate societal harms such as fraud, discrimination, bias, and disinformation; displace and disempower workers; stifle competition; and pose risks to national security.'' To address these threats, E.O. 13984 requires the Secretary to propose regulations ''that require United States Infrastructure as a Service (IaaS) providers to verify the identity of a foreign person that obtains an Account.'' These regulations must also require U.S. IaaS providers to verify the identity of foreign customers, and the E.O. authorizes the Secretary to limit certain foreign actors' access to U.S. IaaS products. E.O. 14110 adds to these requirements by requiring the Secretary to propose regulations that require U.S. IaaS providers to ensure that foreign resellers of U.S. IaaS products verify the identity of any foreign person that obtains an IaaS Account for the foreign reseller. These requirements are necessary to protect the national security of the United States and the integrity of the ICTS supply chain.

2. Affected Entities

The proposed rulemaking would apply to all U.S. providers of U.S. IaaS products, including resellers.

3. Number of Affected Entities

The Department estimated both a lower and upper bound for the number of entities affected by the proposed rule. To derive the lower bound estimate, the Department first identified a core group of IaaS providers that operate in the United States. This lower bound estimate assumes that all United States IaaS products are sold directly to the customer and no domestic resellers supply these products. Based on this lower bound estimate, the Department estimates that approximately 25 providers in the United States would be potentially directly impacted by this rulemaking.

The upper bound estimate of potentially impacted entities is based on the estimated number of resellers who participate in the sale of U.S. IaaS products. According to the Census Bureau, in 2020 there were 1,812 firms that owned at least one establishment located within the United States and operating in North American Industry Classification System (NAICS) code 517121—Telecommunication Resellers in the United States.[1] While most of these entities would not likely be impacted by this proposed rule as they do not resell IaaS products or services, the Department uses this figure as the upper bound estimate for this impact statement because it is possible all of the Telecommunications Resellers could engage in IaaS product resale. The Department therefore estimates the number of entities potentially affected by this rulemaking would be between 25 and 1,837. Of those firms operating in the Telecommunications Resellers industry under NAICS 51721, 99 percent, or 1,791 firms, operate an enterprise size of 500 or fewer employees. This data underscores that the majority of listed entities in this sector can be classified as small businesses based on this specific definition.

4. Administrative Compliance Burden on U.S. Companies

The Department assessed the administrative compliance burden on U.S. companies by estimating the costs of: (1) learning about the proposed rule; (2) developing CIPs; (3) implementing CIPs; (4) updating CIPs; (5) completing annual certifications; (6) educating foreign resellers on CIP requirements; and (7) processing reporting from and on foreign resellers and foreign customers. Although the rulemaking would provide certain regulatory alternatives for industry, such as the option to adopt the CIP of another provider, and exemptions from the CIP requirement in certain circumstances, the below analysis assumes that each company would engage in the development, implementation, and updating of a CIP.

The Department also requests public comment on any of the assumptions and estimates in this analysis.

i. Learning About the Proposed Rule

The Department expects that businesses learning about the proposed rule and its requirements would largely be accomplished by attorneys and operations managers. The Department's estimate for the cost to businesses of learning about the rulemaking is further derived from estimates of the number of firms potentially impacted by the rulemaking, the share of potentially impacted firms likely to devote time and resources to learning about the rulemaking, the number of hours needed to read and learn about the rulemaking, and the wages of the employees tasked with learning about the rulemaking. Table 1 provides a detailed breakdown of the framework for estimating these costs.

[1] A firm is a business organization consisting of one or more domestic establishments in the same geographic area and industry that were specified under common ownership or control. See: *https://www.census.gov/programs-surveys/susb/about/glossary.html.*

Table 1: Framework for Estimating Costs Associated with Learning about the Proposed Rule

Line	Item	Low Estimate	High Estimate	Basis for estimate
1	Entities potentially impacted by the proposed rule	25	1,837	Low estimate is based on a supply chain analysis of a core group of companies directly affected by the proposed rule. High estimate is based on an analysis of industries that resell IaaS products.
2	Share of potentially impacted entities likely to devote time and resources to learning about the proposed rule	0.5	0.9	At the low end we estimate half of potentially impacted entities will devote time and resources towards learning about the proposed rule. This assumes a large number of potentially impacted entities already collect similar identifying information from their customers. At the high end we estimate nearly

				all potentially impacted entities will devote time and resources towards learning about the proposed rule.
3	Entities likely to devote time and resources to learning about the proposed rule	13	1,653	Line 1 * Line 2
4	Operations manager hours	2	2	This is an estimate of how long it is likely to take an operations manager to read and understand the proposed rule.
5	Operations manager hourly wage, doubled to account for benefits and overhead ($)	118	118	This is the Bureau of Labor Statistics (BLS) estimate for the mean hourly wage of an operations manager, doubled to reflect benefits and overhead.
6	Operations manager cost per entity ($)	236	236	Line 4 * Line 5
7	Lawyer hours	10	10	This is an estimate of how long it is likely to take a lawyer to read and understand the proposed rule.
8	Lawyer hourly wage, doubled to account for benefits and overhead ($)	157	157	This is the BLS estimate for the mean hourly wage of a lawyer, doubled to reflect benefits and overhead.
9	Lawyer cost per entity ($)	1,570	1,570	Line 7 * Line 8
10	Total initial cost per entity to learn about proposed rule ($)	1,806	1,806	Line 6 + Line 9
11	Total initial cost to learn about proposed rule ($)	22,575	2,985,860	Line 3 * Line 10
12	Annualized cost per entity over 10 years at 7% rate ($)	240	240	Line 10 is a one-time cost per firm to learn about the proposed rule. Line 12 annualizes that one-time cost over 10

ii. Developing a CIP

To develop CIPs, companies would likely be required to assess their offerings of IaaS products, analyze relevant cybersecurity risks associated with these products, evaluate procedures for customer identity verification, and develop risk mitigation strategies.

To estimate the financial impact to businesses of developing a CIP, the Department estimated the number of firms likely impacted by the proposed rule, the share of potentially impacted firms likely to devote time and resources to developing a CIP, the number of hours needed to develop a CIP, and the wages of the employees tasked with developing a CIP. A detailed breakdown of the framework for estimating these costs can be found in table 2.

				years at a 7% discount rate.
13	Annualized cost per entity over 10 years at 3% rate ($)	206	206	Line 10 is a one-time cost per firm to learn about the proposed rule. Line 13 annualizes that one-time cost over 10 years at a 3% discount rate.
14	Total annualized costs at 7% discount rate ($)	3,004	397,308	Line 3 * Line 12
15	Total annualized costs at 3% discount rate ($)	2,569	339,839	Line 3 * Line 13

Table 2: Framework for Estimating Costs Associated with Developing a CIP

Line	Item	Low Estimate	High Estimate	Basis for estimate
1	Entities potentially impacted by the proposed rule	25	1,837	Low estimate is based on a supply chain analysis of a core group of companies directly affected by the proposed rule. High estimate is based on an analysis of

				industries that resell IaaS products.
2	Share of potentially impacted entities likely to devote time and resources to developing a CIP	0.8	1	The Department estimate that some entities already have performed the work needed to establish a CIP and thus will not need to devote time and resources to developing one. The high-end estimate assumes all providers will have to change their existing procedures to come into compliance with this proposed rule.
3	Entities likely to devote time and resources to developing a CIP	20	1,837	Line 1 * Line 2
4	Operations manager hours	80	80	This is an estimate of how long it is likely to take an operations manager to develop a CIP.
5	Operations manager hourly wage, doubled to account for benefits and overhead ($)	118	118	This is the BLS estimate for the mean hourly wage of an operations manager, doubled to reflect benefits and overhead.
6	Operations manager cost per entity ($)	9,440	9,440	Line 4 * Line 5
7	Total initial cost to develop a CIP ($)	188,800	17,341,280	Line 3 * Line 6
8	Annualized cost per entity over 10 years at 7% rate ($)	1,256	1,256	Line 6 is a one-time cost per firm to develop a CIP. Line 8 annualizes that one-time cost over 10 years at a 7% discount rate.

iii. Implementing the CIP

Implementation of a CIP would likely entail: collecting and verifying identifying information of customers, maintaining a secure recordkeeping system, performing due-diligence checks using government lists of known malicious cyber actors, and providing annual reports to the Department. The proposed rule would also require entities to monitor aspects of compliance with their foreign customers and resellers. The costs estimated for implementing a CIP would be incurred annually. To estimate the financial impact to businesses of implementing a CIP, the Department estimated the number of firms potentially impacted by the proposed rule, the share of potentially impacted firms likely to implement a CIP, and the wages of the employees performing these tasks. A detailed breakdown of the framework for estimating these costs can be found in table 3.

9	Annualized cost per entity over 10 years at 3% rate ($)	1,074	1,074	Line 6 is a one-time cost per firm to develop a CIP. Line 9 annualizes that one-time cost over 10 years at a 3% discount rate.
10	Total annualized costs at 7% discount rate ($)	25,122	2,307,484	Line 3 * Line 8
11	Total annualized costs at 3% discount rate ($)	21,488	1,973,716	Line 3 * Line 9

Table 3: Framework for Estimating Costs Associated with Implementing a CIP

Line	Item	Low Estimate	High Estimate	Basis for estimate
1	Entities potentially impacted by the proposed rule	25	1,837	Low estimate is based on a supply chain analysis of a core group of companies directly affected by the proposed rule. High estimate is based on

				an analysis of industries that resell IaaS products.
2	Share of potentially impacted entities likely to devote time and resources to implementing a CIP	0.8	1	We expect all entities that develop a CIP will implement the CIP. Thus, these estimates are identical to those in table 2.
3	Entities likely to devote time and resources to implementing a CIP	20	1,837	Line 1 * Line 2
4	Number of new Accounts subject to the proposed rule per firm per year	100	1,000	This is an estimate of the number of transactions for each provider likely to be subject to CIP requirements in a given year.
5	Operations manager hours to perform analysis and due diligence per new account	0.3	0.3	This is an estimate of the number of hours we expect would be needed to collect customer identification information and verify that information.
6	Total Operations manager hours to perform analysis and due diligence per new account	33	330	Line 4 * Line 5
7	Operations manager hourly wage, doubled to account for benefits and overhead ($)	118	118	This is the BLS estimate for the mean hourly wage of an operations manager, doubled to reflect benefits and overhead.
8	Operations manager cost per transaction ($)	39	39	Line 5 * Line 7
9	Operations manager annual cost per entity ($)	3,894	38,940	Line 4 * Line 8
10	Total annual cost ($)	77,880	71,532,780	Line 3 * Line 9

iv. Updating the CIP

The proposed rule would require that affected entities regularly, at least annually, update their CIPs to account for new technologies, cybersecurity vulnerabilities, and changes to their business. This would likely entail reviewing the threat landscape from the previous year and identifying system vulnerabilities. Table 4 details the estimated financial impact to businesses of annually updating a CIP.

Table 4: Framework for Estimating Costs Associated with Updating the CIP

Line	Item	Low Estimate	High Estimate	Basis for estimate
1	Entities potentially impacted by the proposed rule	25	1,837	Low estimate is based on a supply chain analysis of a core group of companies directly affected by the proposed rule. High estimate is based on an analysis of industries that resell IaaS products.
2	Share of potentially impacted entities likely to devote time and resources to updating a CIP	0.8	1	We expect all entities that develop a CIP will conduct an annual update. Thus, these estimates are identical to those in tables 2 and 3.
3	Entities likely to devote time and resources to updating a CIP	20	1,837	Line 1 * Line 2
4	Number of CIP updates necessary annually	1	3	Low estimate is based on the assumption that businesses are only updating their CIPs once annually. High estimate is based on 2 off-cycle major changes in the business and threat landscape requiring additional updates.
5	Operations manager hours to review and assess service	20	80	We estimate 0.5 to 2 weeks, depending on the complexity of business

	offerings, threat landscape, and failure to verify customer identities			changes, magnitude of threats faced, and depth of customer base.
6	Operations manager hourly wage, doubled to account for benefits and overhead ($)	118	118	This is the BLS estimate for the mean hourly wage of an operations manager, doubled to reflect benefits and overhead.
7	Operations manager cost per update ($)	2,360	9,440	Line 5 * Line 6
8	Lawyer hours to review CIP updates	16	24	We estimate approximately 2-3 days to review updated CIPs.
9	Lawyer hourly wage, doubled to account for benefits and overhead ($)	157	157	This is the BLS estimate for the mean hourly wage of a lawyer, doubled to reflect benefits and overhead.
10	Lawyer cost per update ($)	2,512	3,768	Line 8 * Line 9
11	Total cost per update ($)	4,872	13,208	Line 7 + Line 10
12	Annual cost per entity($)	4,872	39,624	Line 11 * Line 4
13	Total annual cost ($)	97,440	72,789,288	Line 12 * Line 3

v. Annual Certifications

The proposed rule would require IaaS providers to annually certify to the Department that they have updated their CIP, that their CIP complies with the rulemaking, and that they have recorded the resolution of each situation in which the IaaS provider was unable to verify the identity of a customer since its last certification.

The estimated costs of submitting annual certifications would occur annually. This estimate for costs is derived from estimates of the number of firms impacted by the proposed rule, the share of potentially impacted firms likely to submit the annual certifications, and the wages of the employees performing these tasks. A detailed breakdown of the framework for estimating these costs can be found in table 5.

Table 5: Framework for Estimating Costs Associated with Annual Certifications

Line	Item	Low Estimate	High Estimate	Basis for estimate
1	Entities potentially impacted by the proposed rule	25	1,837	Low estimate is based on a supply chain analysis of a core group of companies directly affected by the proposed rule. High estimate is based on an analysis of industries that resell IaaS products.
2	Share of potentially impacted entities likely to devote time and resources to submitting annual certifications.	0.8	1	We expect all entities that develop a CIP will submit an Annual Certification. Thus, these estimates are identical to those in tables 2 and 3.
3	Entities likely to devote time and resources to submitting annual certifications.	20	1,837	Line 1 * Line 2
4	Operations manager hours to review prior year compliance, CIP updates, and submit certification.	8	24	This is an estimate of the time needed to evaluate the provider's customer base, account offerings, and current vulnerabilities to prepare the annual certification.
5	Operations manager hourly wage, doubled to account for benefits and overhead ($)	118	118	This is the BLS estimate for the mean hourly wage of an operations manager, doubled to reflect benefits and overhead.
6	Operations manager cost per entity ($)	944	2,832	Line 4 * Line 5

7	Total Annual Operations manager cost ($)	18,880	5,202,384	Line 3 * Line 6
8	Lawyer hours to review annual recertifications	5	5	This is an estimate of the time needed for a lawyer to review a provider's annual certification prior to submission to the Department
9	Lawyer hourly wage, doubled to account for benefits and overhead ($)	157	157	This is the BLS estimate for the mean hourly wage of a lawyer, doubled to reflect benefits and overhead.
10	Lawyer cost per annual certifications ($)	785	785	Line 8 * Line 9
11	Total annual lawyer cost ($)	15,700	1,442,045	Line 3 * Line 10
12	Total annual cost ($)	34,580	6,644,429	Line 7 + Line 11

vi. Foreign Reseller Requirements

The burden of learning about the proposed rule, and developing, maintaining, and recertifying CIPs for foreign resellers would fall upon foreign entities (the foreign resellers themselves). However, the Department recognizes that U.S. IaaS providers would be part of educating foreign resellers on regulatory requirements. U.S. IaaS providers would also need to collect and submit CIPs from foreign resellers. The Department anticipates that foreign resellers of U.S. IaaS providers would comply with the regulatory requirements, so does not anticipate there to be impact beyond the regulatory costs of compliance (which will fall to foreign entities), and the burden on U.S. providers to educate foreign resellers and process foreign reseller CIPs.

The Department recognizes that individual costs to industry would vary according to the number of foreign resellers connected to a U.S. IaaS provider. However, the Department is unable to estimate the potential number of foreign resellers of U.S. IaaS products, as this information is business proprietary information held by the U.S. IaaS providers. Following the implementation of CIP reporting requirements to the Department, the Department may be able to estimate a lower bound and upper bound on potential cost per CIP certification. However, at this time, due to the described limitations, the cost estimates have been made on a programmatic basis as opposed to a per CIP certification basis.

vii. Educating Foreign Resellers on U.S. CIP Requirements

U.S. IaaS providers would be required to ensure their foreign resellers comply with this proposed rule and to ensure they receive CIPs from their foreign resellers. This could involve notifying their foreign resellers of this proposed rule's requirements, advising foreign resellers on CIP solutions or processes, and generally educating foreign resellers about this rulemaking.

This estimate for costs is derived from estimates of the number of U.S. firms impacted by the proposed rule, the share of potentially impacted firms to educate their foreign resellers, and the wages of the employees performing these tasks. A detailed breakdown of the framework for estimating these costs can be found in table 6.

Table 6: Framework for Estimating Costs for U.S. IaaS Providers to Educate Foreign Resellers on U.S. CIP Requirements

Line	Item	Low Estimate	High Estimate	Basis for estimate
1	Entities potentially impacted by the proposed rule	25	1,837	Low estimate is based on a supply chain analysis of a core group of companies directly affected by the proposed rule. High estimate is based on an analysis of industries that resell IaaS products.
2	Share of potentially impacted entities likely to devote time and resources to educating their foreign resellers about the proposed rule	0.25	0.75	The Department estimates that roughly half of U.S. IaaS providers have at least one foreign reseller and will consequently devote

				time to educating the reseller on the provisions of this proposed rule. Given that most foreign reseller arrangements are not public information, the Department seeks comment on this estimate.
3	Entities likely to devote time and resources to educating their foreign resellers about the proposed rule	6	1,378	Line 1 * Line 2
4	Operations manager hours to educate their foreign resellers about the proposed rule	120	120	This is an estimate of the number of hours we expect would be needed for an operations manager to educate their foreign resellers about the proposed rule and aid them in developing and running a program. We estimate approximately 3 weeks, based on the 2 weeks estimated for an operations manager to develop a CIP (table 2), plus an additional 1 week.
5	Operations manager hourly wage, doubled to account for benefits and overhead ($)	118	118	This is the BLS estimate for the mean hourly wage of an operations manager, doubled to reflect benefits and overhead.
6	Operations manager cost per entity ($)	14,160	14,160	Line 4 * Line 5
7	Lawyer hours to consult with operations managers and foreign resellers about foreign reseller CIP requirements	10	10	We estimate approximately 10 hours of work spread out over the course of a year.
8	Lawyer hourly wage, doubled to account for benefits and overhead ($)	157	157	This is the BLS estimate for the mean hourly wage of a lawyer, doubled to reflect benefits and overhead.
9	Lawyer cost per entity ($)	1,570	1,570	Line 7 * Line 8

viii. Processing Reporting From Foreign Resellers and on AI Training Runs

The costs to U.S. IaaS providers associated with processing reporting from foreign resellers include costs of collecting and submitting to the Department upon request the CIPs from any foreign resellers, as well as any associated miscellaneous administrative costs. Processing reporting also would include U.S. IaaS providers' activities to report on any of their foreign customers using their U.S. IaaS products in a covered transaction for large AI model training. These would be annual costs.

This estimate for costs is derived from estimates of the number of U.S. firms impacted by the proposed rule, the share of potentially impacted firms that need to process foreign reseller CIPs and reports on foreign customers using their U.S. IaaS products in a covered transaction for large AI model training, and the wages of the employees performing these tasks. A detailed breakdown of the framework for estimating these costs can be found in table 7.

10	Total initial costs per entity to educate foreign resellers ($)	15,730	15,730	Line 6 + Line 9
11	Total initial costs to educate foreign resellers ($)	98,313	21,672,008	Line 3 * Line 10
12	Annualized cost per entity over 10 years at 7% rate ($)	2,093	2,093	Line 10 is a one-time cost per firm to learn about the proposed rule. Line 12 annualizes that one-time cost over 10 years at a 7% discount rate.
13	Annualized cost per entity over 10 years at 3% rate ($)	1,790	1,790	Line 10 is a one-time cost per firm to learn about the proposed rule. Line 13 annualizes that one-time cost over 10 years at a 3% discount rate.
14	Total annualized costs at 7% discount rate ($)	13,082	2,883,744	Line 3 * Line 12
15	Total annualized costs at 3% discount rate ($)	11,190	2,466,622	Line 3 * Line 13

Table 7: Framework for Estimating Costs for U.S. IaaS Providers to Process Reporting from Foreign Resellers and on AI Training Runs

Line	Item	Low Estimate	High Estimate	Basis for estimate
1	Entities potentially impacted by the proposed rule	25	1,837	Low estimate is based on a supply chain analysis of a core group of companies directly affected by the proposed rule. High estimate is based on an analysis of industries that resell IaaS products.
2	Share of potentially impacted entities likely to devote time and resources to processing reporting from and on foreign resellers and foreign customers	0.25	0.75	The Department estimates that roughly half of U.S. IaaS providers have at least one foreign reseller and will consequently dedicate time to processing the reporting from the reseller(s) pursuant to this proposed rule. As such, this calculation is identical to the one in table 6, and the Department similarly seeks comment on this estimate.
3	Entities likely to devote time and resources to processing reporting from and on foreign resellers and foreign customers	6	1,378	Line 1 * Line 2
4	Operations manager hours to process reporting from and on foreign resellers and foreign customers	8	40	This is an estimate of the number of hours we expect would be needed for an operations manager to intake, review, collate, and submit to the Department the reporting from foreign resellers. We estimate approximately 1 day to 1 week of work spread out over the course of a year, depending on the number of foreign resellers and scope of their business.
5	Operations manager hourly wage, doubled to	118	118	This is the BLS estimate for the mean hourly wage of an operations manager, doubled

5. Potential Economic Impact of the Proposed Rule

Using the methodology described above, the Department has broken out the estimated compliance costs—summarized in tables 8 and 9—associated with the proposed rule's implementation. The cumulative costs are estimated to be between $270,672 and $171.7 million.

	account for benefits and overhead ($)			to reflect benefits and overhead.
6	Operations manager cost per entity ($)	944	4720	Line 4 * Line 5
7	Total Annual Operations manager cost ($)	5,900	6,502,980	Line 3 * Line 6
8	Lawyer hours to advise on reporting from and on foreign resellers and foreign customers	20	40	We estimate approximately 0.5-1 week of work spread out over the course of a year to support operations managers in the review and submission to the Department of foreign reseller reporting.
9	Lawyer hourly wage, doubled to account for benefits and overhead ($)	157	157	This is the BLS estimate for the mean hourly wage of a lawyer, doubled to reflect benefits and overhead.
10	Lawyer cost per entity ($)	3,140	6,280	Line 8 * Line 9
11	Total Annual Lawyer cost ($)	19,625	8,652,270	Line 3 * Line 10
12	Total annual cost ($)	25,525	15,155,250	Line 7 + Line 11

Table 8: Estimates for the Cost of the IaaS Proposed Rule (Annualized at 7%)

Aggregate Costs to Businesses (Annualized at 7%)	Low Estimate	High Estimate
1. Learning about the proposed rule (annualized at 7%)	$3,004	$397,308
2. Developing a CIP (annualized at 7%)	$25,122	$2,307,484
3. Implementing the CIP	$77,880	$71,532,780
4. Updating the CIP	$97,440	$72,789,288
5. Annual Certifications	$34,580	$6,644,429
6. Education on U.S. CIP Requirements (annualized at 7%)	$13,082	$2,883,744
7. Processing Reports on and from Foreign Entities	$25,525	$15,155,250
Total (annualized at 7%)	$276,633	$171,710,283

Table 9: Estimates for the Cost of the IaaS Proposed Rule (Annualized at 3%)

Aggregate Costs to Businesses (Annualized at 3%)	Low Estimate	High Estimate
1. Learning about the proposed rule (annualized at 3%)	$2,569	$339,839
2. Developing a CIP (annualized at 3%)	$21,488	$1,973,716
3. Implementing the CIP	$77,880	$71,532,780
4. Updating the CIP	$97,440	$72,789,288
5. Annual Certifications	$34,580	$6,644,429
6. Education on U.S. CIP Requirements (annualized at 3%)	$11,190	$2,466,622
7. Processing Reports on and from Foreign Entities	$25,525	$15,155,250
Total (annualized at 3%)	$270,672	$170,901,923

6. Benefits of the Proposed Rule

The ICTS industry, which includes IaaS products, has become integral to the daily operations and functionality of U.S. critical infrastructure, to U.S. Government operations, and to the U.S. economy as a whole. As such, exploitation of vulnerabilities within the ICTS supply chain can have a drastic effect on the U.S. national security. As noted in E.O. 13984, ''foreign malicious cyber actors aim to harm the United States economy through the theft of intellectual property and sensitive data and to threaten national security by targeting United States critical infrastructure for malicious cyber-enabled activities.''

U.S. entities providing IaaS products, such as network management or data storage, can create multiple opportunities for foreign adversaries to exploit potential vulnerabilities in the ICTS ecosystem. These potential vulnerabilities are often categorized under the general concepts of threats to privacy, data integrity, and denial of service.

As E.O. 13984 highlights, foreign actors can exploit IaaS product vulnerabilities to steal critical intellectual property, health data, government information, or financial user information, potentially without detection. Once detected, the existence of such vulnerabilities may be extremely costly or impossible to remedy.

Malicious foreign actors can also exploit U.S. networks and systems to facilitate data breaches, potentially modifying critical files or data streams, or otherwise impacting the availability of data across U.S. networks. Such capabilities could be exercised in areas as diverse as financial market communications, satellite control systems, or other sensitive sectors.

Further, a foreign adversary could target vulnerable IaaS products to implement denial of service attacks, potentially causing widespread disruptions to critical industries. Without effective attribution, it is difficult for authorities to take mitigating actions to trace and prevent these types of attacks.

These risks, if exploited, could carry significant economic and social costs to both the U.S. Government and consumers. Sophisticated cyber-attacks are often obfuscated, making it difficult to establish the exact number of attacks that have leveraged IaaS product vulnerabilities against the U.S. ICTS supply chain. Such attacks, however, are increasing in frequency, exacting heavy tolls on U.S. consumers and businesses. Not only can attacks impact both sales and productivity, but they can also enact direct costs on businesses that must expend significant resources to remedy vulnerabilities or even pay ransom to retrieve data lost to attackers. While the Department is unable to calculate with certainty the number of attacks targeting the IaaS industry, the potential costs from these attacks are undoubtedly high. Additionally, if the use of IaaS products is expected to increase in the future, so too would the possibility of attacks. While the Department lacks the data necessary to determine precisely the monetary benefits of this proposed rule to compare with its estimated costs, significant portions of the U.S. economy are dependent on resilient ICTS and IaaS supply chains to function, and any disruption to these supply chains will cause significant economic harm to downstream industries.

7. Regulatory Alternatives

The Department considered several alternatives to this regulation to reduce the costs. These are explained in detail in subpart C, Regulatory Flexibility Analysis, of this section, below.

A. Regulatory Flexibility Act

In compliance with section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, the Department has prepared an initial regulatory flexibility analysis (IRFA) for this proposed rule. The IRFA describes the economic impacts the proposed action may have on small entities. The Department seeks comments on all aspects of the IRFA, including the categories and numbers of small entities that may be directly impacted by this proposed rule.

(1) *A description of the reasons why action by the agency is being considered.* The description of the reasons why the proposed rule is being considered is contained earlier in the preamble and is not repeated here.

(2) *A succinct statement of the objectives of, and legal basis for, the proposed rule.* The Department is proposing this rule to comply with Executive Order 13984, ''Taking Additional Steps To Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities'' (86 FR 6387), and E.O. 14110, ''Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence'' (88 FR 75191). E.O. 13984 directs the Secretary to propose regulations requiring U.S. IaaS providers to collect customer identifying information from prospective customers and to verify the identity of all foreign customers. This E.O. further requires the Secretary to propose regulations authorizing the

Secretary to utilize one of two special measures to limit or prohibit specific IaaS Accounts should the Secretary, in consultation with various heads of other Executive agencies, determine that reasonable grounds exist to conclude the IaaS Account is being used to conduct malicious, cyber-enabled activity. E.O. 14110 also requires the Secretary to propose regulations that require U.S. IaaS providers report to the Department when they transact with a foreign reseller to train a large AI model with potential capabilities that could be used in malicious cyber-enabled activity.

(3) *A description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply.* The proposed rule would apply to all providers of U.S. IaaS products, including resellers. The Department acknowledges that actions taken pursuant to this proposed rule may affect small entities or groups that are not easily categorized at present. The Department assesses, based on publicly available information, that the IaaS market is dominated by four large providers; however, it is difficult to ascertain how many small entities, are present in this market. For resellers, Survey of U.S. Business Data suggests that approximately 99 percent of the roughly 1,800 enterprises categorized as ''Telecommunications Resellers'' under NAICS code 517911 have fewer than 500 employees, indicating that the vast number of those resellers would be small businesses under the Small Business Administration (SBA) threshold for this NAICS code (*https://www.sba.gov/document/support-table-size-standards*). However, the Department lacks data on the number of these Telecommunications Resellers that offer IaaS products.

(4) *A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.* The proposed rule would impose on all U.S. IaaS providers of U.S. IaaS products a new requirement to identity and verify the identity of all foreign customers. It would require providers to ensure that foreign resellers of their U.S. IaaS products verify the identity of foreign users. It would require all U.S. IaaS providers of U.S. IaaS products to report to the Department information on instances of training runs by foreign persons for large AI model with potential capabilities that could be used in malicious cyber-enabled activity. Finally, it would require providers to submit annual certifications attesting to the Department that they have reviewed their CIPs and adjusted them to account for changes to the threat landscape since their prior certification. The Department believes this requirement would create the following recordkeeping obligations:

(i) The proposed rule would require that the customer identification and verification requirement be satisfied by obtaining identification information from each customer. The provider would then be required to verify customer identities through documentary or non-documentary methods and to maintain in its records for two years a description of (i) any document relied on for verification, (ii) any such non-documentary methods and results of such measures undertaken, and (iii) the resolution of any substantive discrepancies discovered in verifying the identification information. The Department estimates that the identification, verification, and recordkeeping requirements in the proposed rule would require an IaaS provider employee twenty (20) minutes, on average, to fulfill.

(ii) Annual Certifications. The proposed rule would require that U.S. IaaS providers of U.S. IaaS products provide to the Department annual certifications that indicate that the provider has updated their customer identification program to account for technological advances and the evolving threat landscape. The Department estimates it would require eight (8) to twenty-four (24) hours to review prior year compliance, complete CIP updates, and submit certification.

(iii) The proposed rule would require providers to submit a report to the Department whenever a foreign person transacts with them to train a large AI model with potential capabilities that could be used in malicious cyber-enabled activity. The Department estimates that an IaaS provider making a report on such a transaction could take on average twenty (20) minutes, depending on the complexity of the instance.

(5) *An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule.* This rulemaking does not duplicate or conflict with any Federal rules.

(6) *A description of any significant alternatives to the proposed rule that accomplish the stated objectives of Executive Order 13984 and Executive Order 14110 and applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities.*

- *No-action alternative:* Not implementing a rule under these Executive orders (E.O.s) is not a viable alternative because both E.O.s expressly direct that the Secretary ''shall propose for notice and comment regulations'' given the related national security concerns associated with malicious cyber-enabled activities through the use of U.S. IaaS products.
- *Alternative that would categorically exclude small entities or groups of small entities:* This alternative would not achieve the national security objectives of these E.O.s. Due to the nature of ICTS networks, allowing even small entities or groups of small entities unregulated access to IaaS products or services can allow malicious actors to perpetrate attacks on the entire network, posing an undue risk to U.S. critical infrastructure and the U.S. economy as a whole.
- *Preferred alternative:* The proposed rule is the preferred alternative. It would achieve the objectives of the E.O.s by requiring IaaS providers to verify customer identities and facilitating the implementation of special measures that would allow the Secretary to apply a case-by-case, fact-specific process to identify, assess, and address any and all IaaS Accounts that pose an undue risk to the U.S. national security. The proposed rule also offers an exemption program that would offer providers an alternative to the CIP requirements to reduce their compliance burdens, as providers can decide whether it is less burdensome to implement a CIP or to apply for an exemption.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) provides that an agency generally cannot conduct or sponsor a collection of information, and no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection has obtained Office of Management and Budget (OMB) approval and displays a currently valid OMB Control Number.

This proposed rule contains new collection-of-information requirements subject to review and approval by OMB under the PRA. Specifically, this proposed rule would require U.S. IaaS providers of U.S. IaaS products to develop a written CIP, which dictates how the provider would collect identifying information about its customers, how the provider would verify the identity of its foreign customers, store and maintain

identifying information, and notify its customers about the disclosure of identifying information. Additionally, the proposed rule would require providers to report to the Department information on instances of training runs by foreign persons for large AI models with potential capabilities that could be used in malicious cyber-enabled activity. The Department requests comment on what additional information, if any, the Department should require providers report. Moreover, the proposed rule would require that U.S. IaaS providers of U.S. IaaS products submit to the Department an initial certification, and subsequent annual certifications, detailing certain aspects of their CIPs and stating that they have reviewed their CIP and adjusted it to account for changes to the threat landscape since their prior certification. These certifications would also include an attestation that the current CIP complies with the provisions of the proposed rule. The attestations would require the provider to indicate the frequency with which it was unable to verify the identity of a foreign customer in the prior calendar year and the number of times the provider refused to open an Account.

Alternatively, under the proposed rule, U.S. IaaS providers of U.S. IaaS products may seek an exemption from the CIP requirement by providing a written submission to the Secretary. Should the Secretary grant an exemption on the basis of a finding that the provider complies with security best practices to deter abuse of IaaS products, including that the provider has established an Abuse of IaaS Products Deterrence Program, the provider must thereafter submit annual notifications to the Department so that the Department could be assured that it continues to maintain security best practices to deter the abuse of U.S. IaaS products.

Public reporting burden for the reporting and recordkeeping requirements are estimated to average 245,229 hours for the initial learning, developing, and implementing a CIP for the relevant industry participants (897 respondents * 274 hours, tables 1, 2, and 3). Thereafter, the Department estimates a public reporting burden of 84,494 hours to update and annually certify with the Department a CIP once it has been developed, as well as prepare the annual certification (929 respondents * 91 hours, tables 4 and 5). The Department estimates a public reporting burden of 127,328 hours for the relevant industry participants to educate their foreign resellers on the proposed rule and process reporting from and on foreign resellers and foreign customers (692 respondents * 184 hours, tables 6 and 7). These estimates include the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information.

The total estimated cost to the U.S. Government is $409,200 (500 notifications * 2 staff @GS–12 salary ($102.30/hr) * average of 10 hours each to review for each notification). The $102.30 per hour cost estimate for this information collection is consistent with the GS-scale salary data for a GS–12 step 5.

The Department requests comments on the information collection and recordkeeping requirements associated with this proposed rule. These comments will help the Department:

(i) evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(ii) evaluate the accuracy of our estimate of the burden of the information collection, 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 information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses).

C. Unfunded Mandates Reform Act of 1995

This proposed rule would not produce a Federal mandate (under the regulatory provisions of title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector.

D. Executive Order 13132 (Federalism)

This proposed rule does not contain policies having federalism implications requiring preparations of a Federalism Summary Impact Statement.

E. Executive Order 12630 (Governmental Actions and Interference With Constitutionally Protected Property Rights)

This proposed rule does not contain policies that have takings implications.

F. Executive Order 13175 (Consultation and Coordination With Indian Tribes)

The Department has analyzed this proposed rule under Executive Order 13175 and has determined that the action would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal law.

G. National Environmental Policy Act

The Department has reviewed this rulemaking action for the purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). It has determined that this proposed rule would not have a significant impact on the quality of the human environment.

List of Subjects in 15 CFR Part 7

Administrative practice and procedure, Business and industry, Communications, Computer technology, Critical infrastructure, Executive orders, Foreign persons, Investigations, National security, Penalties, Technology, Telecommunications.

For the reasons set out in the preamble, 15 CFR part 7 is proposed to be amended as follows:

PART 7—SECURING THE INFORMATION AND COMMUNICATIONS TECHNOLOGY AND SERVICES SUPPLY CHAIN

■ 1. The authority citation for part 7 is revised to read as follows:

Authority: 50 U.S.C. 1701, *et seq.;* 50 U.S.C. 1601, *et seq.;* E.O. 13873, 84 FR 22689, 3 CFR, 2019 Comp., p. 317; E.O. 13984, 86 FR 6837, 3 CFR, 2021 Comp., p. 403.

■ 2. Add subpart D, consisting of §§ 7.300 through 7.310, to read as follows:

Subpart D—Infrastructure as a Service Providers' Responsibility To Verify the Identity of Their Customers, Special Measures, and the Use of Their Products for Large AI Model Training

Sec.

7.300 Purpose and scope.
7.301 Definitions and application.
7.302 Customer Identification Program.
7.303 Foreign reseller requirements.
7.304 Customer Identification Program reporting requirements.
7.305 Compliance assessments.
7.306 Customer Identification Program exemptions.
7.307 Special measures for certain foreign jurisdictions or foreign persons.
7.308 Reporting of large AI model training.
7.309 Enforcement.
7.310 Reporting violations.

§ 7.300 Purpose and scope.

Foreign actors may use United States Infrastructure as a Service (IaaS) products for a variety of malicious cyber-enabled activities. In light of these threats, it is the purpose of this subpart to:

(a) Require U.S. IaaS providers of U.S. IaaS products to implement programs to maintain certain records related to IaaS Accounts in which foreign persons have an interest and verify the identity of such persons, and to require their foreign resellers to do the same, in order to facilitate law enforcement requests for such records and otherwise implement the provisions of Executive Order 13984 and Executive Order 14110;

(b) Prevent foreign persons from using U.S. IaaS products to conduct malicious cyber-enabled activities; and

(c) Safeguard the national security of the United States.

§ 7.301 Definitions and application.

For the purposes of this subpart:

Artificial intelligence or *AI* has the meaning set forth in 15 U.S.C. 9401(3).

AI model means a component of an information system that implements AI technology and uses computational, statistical, or machine-learning techniques to produce outputs from a given set of inputs.

AI system means any data system, software, hardware, application, tool, or utility that operates in whole or in part using AI.

Availability means ensuring timely and reliable access to and use of information and information systems by an authorized person or system, including resources provided as part of a product or service.

Beneficial owner means an individual who either:

(1) Exercises substantial control over a customer; or

(2) Owns or controls at least 25 percent of the ownership interests of a customer.

Confidentiality means preserving authorized restrictions on information access and disclosure, including means for protecting personal privacy and proprietary information.

Customer means any individual or entity who contracts with an IaaS provider to create or maintain an IaaS Account with an IaaS provider.

Customer Identification Program or *CIP* means a program created by a United States IaaS provider of U.S. IaaS products that dictates how the provider will collect identifying information about its customers, how the provider will verify the identity of its foreign customers, store and maintain identifying information, and notify its customers about the disclosure of identifying information.

Department means the United States Department of Commerce.

Disassociability means enabling the processing of data or events without association to individuals or devices beyond the operational requirements of the system.

Dual-use foundation model means:

(1) An AI model that is trained on broad data; generally uses self-supervision; contains at least tens of billions of parameters; is applicable across a wide range of contexts; and that exhibits, or could be easily modified to exhibit, high levels of performance at tasks that pose a serious risk to security, national economic security, national public health or safety, or any combination of those matters, such as by:

(i) Substantially lowering the barrier of entry for non-experts to design, synthesize, acquire, or use chemical, biological, radiological, or nuclear (CBRN) weapons;

(ii) Enabling powerful offensive cyber operations through automated vulnerability discovery and exploitation against a wide range of potential targets of cyber attacks; or

(iii) Permitting the evasion of human control or oversight through means of deception or obfuscation.

(2) Models meet this definition even if they are provided to end users with technical safeguards that attempt to prevent users from taking advantage of the relevant unsafe capabilities.

Entity means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

Floating-point operation means any mathematical operation or assignment involving floating-point numbers, which are a subset of the real numbers typically represented on computers by an integer of fixed precision scaled by an integer exponent of a fixed base.

Foreign beneficial owner means a beneficial owner that is not a United States person.

Foreign customer means a customer that is not a United States person.

Foreign jurisdiction means any country, subnational territory, or region, other than those subject to the civil or military jurisdiction of the United States, in which any person or group of persons exercises sovereign de facto or de jure authority, including any such country, subnational territory, or region in which a person or group of persons is assuming to exercise governmental authority whether such a person or group of persons has or has not been recognized by the United States.

Foreign person means a person that is not a United States person.

Foreign reseller or *foreign reseller of U.S. Infrastructure as a Service products* mean a foreign person who has established an Infrastructure as a Service Account to provide Infrastructure as a Service products subsequently, in whole or in part, to a third party.

Generative AI means the class of AI models that emulate the structure and characteristics of input data in order to generate derived synthetic content. This can include images, videos, audio, text, and other digital content.

Individual means any natural person.

Infrastructure as a Service Account or *Account* means a formal business relationship established to provide IaaS products to a person in which details of such transactions are recorded.

Infrastructure as a Service product or *IaaS product* means a product or service offered to a consumer, including complimentary or ''trial'' offerings, that provides processing, storage, networks, or other fundamental computing resources, and with which the consumer is able to deploy and run software that is not predefined, including operating systems and applications. The consumer typically does not manage or control most of the underlying hardware but has control over the operating systems, storage, and any deployed applications. The term is inclusive of ''managed'' products or services, in which the provider is responsible for some aspects of system configuration or maintenance, and ''unmanaged'' products or services, in which the provider is only responsible for ensuring that the product is available to the consumer. The term is also inclusive of ''virtualized'' products and services, in which the computing resources of a physical machine are split between virtualized computers accessible over the internet (*e.g.,* ''virtual private servers''), and ''dedicated'' products or services in which the total computing resources of a physical machine are provided to a single person (*e.g.,* ''bare-metal servers'').

Integer operation means any mathematical operation or assignment involving only integers, or whole numbers expressed without a decimal point.

Integrity means guarding against improper information modification or destruction and includes ensuring information non-repudiation and authenticity.

Knowledge has the meaning set out in 15 CFR 772.1.

Large AI model with potential capabilities that could be used in malicious cyber-enabled activity means any AI model with the technical conditions of a dual-use foundation model or otherwise has technical parameters of concern, that has capabilities that could be used to aid or automate aspects of malicious cyber-enabled activity, including but not limited to social engineering attacks, vulnerability discovery, denial-of-service attacks, data poisoning, target selection and prioritization, disinformation or misinformation generation and/or propagation, and remote command-and-control of cyber operations. A model shall be considered to be a large AI model with potential capabilities that could be used in malicious cyber-enabled activity under this definition if it meets the technical conditions described in interpretive rules issued by the Department and published in the **Federal Register**.

Machine learning means a set of techniques that can be used to train AI algorithms on data to improve performance at a task or tasks.

Malicious cyber-enabled activities means activities, other than those authorized by or in accordance with U.S. law, that seek to compromise or impair the confidentiality, integrity, or availability of computer, information, or communications systems, networks, physical or virtual infrastructure controlled by computers or information systems, or information resident thereon.

Manageability means providing the capability for granular administration of data, including alteration, deletion, and selective disclosure.

Model weight means a numerical parameter within an AI model that helps determine the model's outputs in response to inputs.

Predictability means enabling reliable assumptions by individuals, owners, and operators about data and their processing by a system, product, or service.

Person means an individual or entity.

Privacy-preserving data sharing and analytics means the use of privacy-enhancing technologies to achieve disassociability, predictability, manageability, and confidentiality when performing analytics on data.

Red Flag means a pattern, practice, or specific activity that indicates the possible existence of malicious cyber-enabled activities.

Reseller means a person that maintains a Reseller Account.

Reseller Account means an Infrastructure as a Service Account established to provide IaaS products to a person who will then offer those products subsequently, in whole or in part, to a third party.

Risk-based means based on an appropriate assessment of the relevant risks, including those presented by the various types of service offerings maintained by the provider, the methods used to open an Account, the varying types of identifying information available to the provider, and the provider's customer base.

Secretary means the Secretary of Commerce or the Secretary's designee.

Threat landscape means the broad environment of geopolitical, economic, and technological factors that must be evaluated when developing risk-based procedures that enable the provider to form a reasonable belief of the true identity of each account owner and beneficial owner to deter facilitating significant Malicious cyber-enabled activities.

Training or *training run* refers to any process by which an AI model learns from data using computing power.

Transaction means any transfer of value including any of the following, whether proposed or completed: an exchange of value for a good or service; a merger, acquisition, or takeover; an investment; and any other transfer, agreement, or arrangement, the structure of which is designed or intended to evade or circumvent the application of § 7.307.

United States Infrastructure as a Service product or *U.S. IaaS product* means any Infrastructure as a Service product owned by any United States person or operated within the territory of the United States.

United States Infrastructure as a Service provider or *U.S. IaaS provider* means any United States person that offers any Infrastructure as a Service product.

United States person or *U.S. person* means any U.S. citizen, lawful permanent resident of the United States as defined by the Immigration and Nationality Act, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person located in the United States.

United States Reseller or *U.S. Reseller* means a reseller that is a United States person.

§ 7.302 Customer Identification Program.

(a) *In general.* Each U.S. IaaS provider of U.S. IaaS products must maintain and implement a written Customer Identification Program (CIP) that meets the requirements in this section.

(b) *Scope of CIP.* The CIP must be appropriate for the IaaS providers' size, type of IaaS products offered, and relevant risks (including those presented by the various types of service offerings maintained by the IaaS providers, the various methods of opening Accounts, the varying types of identifying information available, and the IaaS providers' customer base) that, at a minimum, include each of the requirements of this section. Any IaaS provider who is only a reseller of U.S. IaaS products, may, by agreement with the initial U.S. IaaS provider, reference, use, or adopt the initial U.S. IaaS provider's CIP for purposes of meeting the requirements of this section.

(c) *Foreign reseller CIP.* As specified in § 7.303(a), U.S. IaaS providers of U.S. IaaS products must ensure that foreign resellers of their U.S. IaaS products maintain and implement a written CIP that meets the requirements in this paragraph (c) and paragraphs (d) and (e) of this section.

(d) *Identity verification procedures.* The CIP must include risk-based procedures for verifying the identity of each foreign customer to the extent it enables the U.S. IaaS provider or foreign reseller of U.S. IaaS products to form a reasonable belief that it knows the true identity of each customer.

(1) *Customer information required.* (i) The CIP must contain procedures that enable the U.S. IaaS provider or foreign reseller of U.S. IaaS products to determine whether a potential customer and all beneficial owners are U.S. persons. If the IaaS provider determines the potential customer and all beneficial owners are U.S. persons, this subpart will not apply to any IaaS Account opened for use by that U.S. person. U.S. IaaS providers and foreign resellers of U.S. IaaS products must exercise reasonable due diligence to ascertain the true identity of any customer or beneficial owner of an Account who claims to be a U.S. person.

(ii) The CIP must contain procedures for opening an Account that specify the identifying information that will be obtained from each potential customer and beneficial owner(s) of an Account that will be used to determine whether they are U.S. persons. These procedures must provide U.S. IaaS providers or foreign resellers of U.S. IaaS products with a sound basis to verify the true identity of their customer and beneficial owners and reflect reasonable due diligence efforts.

(iii) All U.S. IaaS providers and all of their foreign resellers of U.S. IaaS products must obtain, at a minimum, the following information from any potential foreign customer or foreign beneficial owner prior to opening an Account:

(A) Name, which shall be:

(*1*) For an individual, full legal name; or

(*2*) For an entity, business name, including all names under which the business is known to be or has been doing business.

(B) Address, which shall be:

(*1*) For an individual, a residential or business street address and the location(s) from which the IaaS product will be used.

(*2*) For an individual who does not have a residential or business street address, an Army Post Office (APO) or Fleet Post Office (FPO) box number, and the location(s) from which the IaaS product will be used.

(*3*) For an entity, a principal place of business, or if an entity is not a business, the address to which inquiries should be directed, and the location(s) from which the IaaS product will be used.

(*4*) For a person other than an individual (such as a corporation, partnership, or trust), the jurisdiction under whose laws the person is constituted or organized; and

(*5*) For a person other than an individual (such as a corporation, partnership, or trust), the name(s) of the beneficial owner(s) of that Account.

(C) Means and source of payment for the Account including:

(*1*) Credit card number;

(*2*) Account number;

(*3*) Customer identifier;

(*4*) Transaction identifier;

(*5*) Virtual currency wallet or wallet address identifier;

(*6*) Equivalent payment processing information, for alternative sources of payment; or

(*7*) Any other payment sources or types used.

(D) Email address.

(E) Telephonic contact information.

(F) internet protocol (IP) addresses used for access or administration and the date and time of each such access or administrative action, related to ongoing verification of such foreign person's ownership or control of such Account.

(2) *Customer verification.* The CIP must contain procedures for verifying the identity of the potential foreign customer and beneficial owners of the Account, including by using information obtained in accordance with paragraph (d)(1) of this section, prior to opening the Account. The procedures must include a documentary verification method, as provided in paragraph (d)(2)(i) of this section, a non-documentary verification method, as described in paragraph (d)(2)(ii) of this section or a combination of both methods.

(i) *Verification through documents.* For an IaaS provider relying on documents, the CIP must contain procedures that set forth the documents the IaaS provider will use and its method for ascertaining the documents are valid.

(ii) *Verification through non-documentary methods.* For an IaaS provider relying on non-documentary methods, the CIP must contain procedures that describe the non-documentary methods the IaaS provider will use.

(iii) *Additional verification for certain customers.* The CIP must address situations where, based on the IaaS provider's risk assessment of a new Account opened by an entity, the IaaS provider will obtain further information about individuals and beneficial owners of the Account, including signatories, in order to verify the potential customer's identity. This verification method applies only when the IaaS provider cannot verify the potential customer's identity using the verification methods described in paragraphs (d)(2)(i) and (ii) of this section or when the attempted verification leads the IaaS provider to doubt the true identity of the potential customer.

(iv) *U.S. person accounts.* If the IaaS provider verifies, through the procedures outlined in paragraphs (d)(2)(i) through (iii) of this section, that the customer and all beneficial owners are U.S. persons, the Account will not be subject to any other regulation in this subpart.

(3) *Lack of verification.* The CIP must include procedures for responding to circumstances in which the U.S. IaaS provider or foreign reseller of U.S. IaaS products cannot form a reasonable belief that it knows the identity of a customer or beneficial owner. These procedures should describe:

(i) When the IaaS provider should not open an Account for the potential customer;

(ii) The terms under which a customer may use an Account while the IaaS provider attempts to verify the identity of a customer or beneficial owner of the Account, such as restricted permission or enhanced monitoring of the Account;

(iii) When the IaaS provider should close an Account or subject it to other measures, such as additional monitoring, permitted to be used under paragraph (d)(3)(ii) of this section, after attempts to verify the identity of a customer or beneficial owner of the Account have failed; and

(iv) Other measures for account management or redress for customers whose identification could not be verified or whose information may have been compromised.

(e) *Recordkeeping.* The CIP must include procedures for making and maintaining a record of all information obtained under the procedures implementing paragraph (d) of this section.

(1) *Required records.* At a minimum, the record must include for any foreign customer or beneficial owner buying from a U.S. IaaS provider or foreign reseller of U.S. IaaS products:

(i) All identifying information about a customer or beneficial owner obtained under paragraph (d) of this section;

(ii) A copy or description of any document that was relied on under paragraph (d)(2)(i) of this section;

(iii) A description of any methods and the results of any measures undertaken to verify the identity of the customer and beneficial owners under paragraph (d)(2)(ii) or (iii) of this section; and

(iv) A description of the resolution of any substantive discrepancy discovered when verifying the identifying information obtained.

(2) *Retention of records.* U.S. IaaS providers of U.S. IaaS products must retain the records required under paragraph (e)(1) of this section for at least two years after the date the Account is closed or the date the Account was last accessed.

(3) *Limits on third-party access to records created and maintained pursuant to this subpart.* The CIP must include methods to ensure that records created and maintained pursuant to this subpart will not be shared with any third party, except insofar as such access is otherwise consistent with this subpart or lawful. Such methods should include methods to prevent unauthorized access to such records by a third party or employee of the IaaS provider without a need-to-know, including encryption and/or other methods to protect the availability, integrity, and confidentiality of such records. However, these limits need not apply when sharing security best practices or other threat information with other U.S. IaaS providers of U.S. IaaS products, or relevant consortia.

(f) *Periodic review.* The CIP must include risk-based procedures for:

(1) Requiring a customer to notify the IaaS provider when the customer adds beneficial owners to its account; and

(2) Periodic continued verification of the accuracy of the information provided by a customer.

§ 7.303 Foreign reseller requirements.

(a) *In general.* U.S. IaaS providers that contract with, enable, or otherwise allow foreign resellers to resell their

U.S. IaaS products will be subject to certain requirements. Each U.S. IaaS provider must ensure that any foreign reseller of its U.S. IaaS products maintains and implements a written CIP as specified in paragraph (b) of this section and must furnish a foreign reseller's written CIP upon request from the Department, as specified in paragraph (c) of this section.

(b) *CIP requirements.* Each U.S. IaaS provider must require that any foreign reseller of its U.S. IaaS products maintains and implements a written CIP that meets the requirements set forth in § 7.302(d) through (f).

(c) *Collecting and reporting on foreign reseller CIPs.* Each U.S. IaaS provider must follow procedures related to reporting on the implementation of CIPs for each of the U.S. IaaS provider's foreign resellers as required in § 7.304(e) and (f) and according to requirements described in § 7.304(a) through (d).

(d) *Furnishing records.* Upon receiving a request from the Department for a foreign reseller's written CIP, the U.S. IaaS provider of U.S. IaaS products must provide the foreign reseller's written CIP to the Department within ten calendar days of the Department's request.

(e) *Investigation, remediation, and termination of foreign reseller relationship.* A U.S. IaaS provider must ensure that its foreign resellers maintain CIPs that comply with the requirements set forth in § 7.302(c) through (e). A U.S. IaaS provider must, upon receipt of evidence that indicates the failure of a foreign reseller to maintain or implement a CIP or the lack of good-faith efforts by the foreign reseller to prevent the use of U.S. IaaS products for malicious cyber-enabled activities, take steps to close the foreign reseller account and, if relevant, to report the suspected or actual malicious cyber-enabled activity discovered to relevant authorities according to the procedures the U.S. IaaS provider has described in their CIP according to § 7.304(a)(2)(v). The U.S. IaaS provider must terminate the reseller relationship within 30 calendar days if the U.S. IaaS provider has knowledge that the foreign reseller has not remediated the issues identified or discovered by the U.S. IaaS provider, or if the continuation of the reseller relationship otherwise increases the risk its U.S. IaaS products may be used for malicious cyber-enabled activity.

§ 7.304 Customer Identification Program reporting requirements.

(a) *Certification form.* Each U.S. IaaS provider must notify the Department of implementation of its CIP and, if relevant, the CIPs of each foreign reseller of its U.S. IaaS products, through submission of a CIP certification form, which will include:

(1) A description of:

(i) The mechanisms, services, software, systems, or tools the IaaS provider uses to verify the identity of foreign persons according to criteria described in § 7.302(d);

(ii) The procedures the IaaS provider uses to require a customer to notify the IaaS provider of any changes to the customer's ownership—such as adding or removing beneficial owners—and the IaaS provider's process for ongoing verification of the accuracy of the information provided by a customer;

(iii) The mechanisms, services, software, systems, or tools used by the IaaS provider to detect malicious cyber activity;

(iv) The IaaS provider's procedures for requiring each foreign reseller to maintain a CIP;

(v) The IaaS provider's procedures for identifying when a foreign person transacts to train a large AI model with potential capabilities that could be used in malicious cyber-enabled activity, pursuant to § 7.308; and

(vi) Name, title, email, and phone number of the Primary Contact responsible for managing the CIP;

(2) Information pertaining to the IaaS provider's provision of U.S. IaaS products, including:

(i) A description of the IaaS provider's service offerings and customer bases in foreign jurisdictions;

(ii) The number of employees in IaaS provision and related services;

(iii) The mechanisms, services, software, systems, or tools used by the IaaS provider to detect malicious cyber-enabled activity, to include a description of how the mechanisms, services, software, systems, or tools are used;

(iv) The mechanisms, services, software, systems, or tools used by the IaaS provider to detect a training run that could result in the training of a large AI model with potential capabilities that could be used in malicious cyber-enabled activity;

(v) The process the IaaS provider uses to report any suspected or actual malicious cyber activity discovered to relevant authorities;

(vi) The number of IaaS customers;

(vii) The number and locations of the IaaS provider's foreign beneficial owners;

(viii) A list of all foreign resellers of IaaS products; and

(ix) The number of IaaS customer accounts held by foreign customers whose identity has not been verified, including details on:

(A) The date the IaaS provider provisioned the account, or accounts, for each customer whose identity is unverified;

(B) A description and timeline of actions the IaaS provider will take to verify the identity of each customer;

(C) Any other information available to the IaaS provider on the nature of the account, or accounts, provided to each unverified customer;

(D) The date the IaaS provider will deprovision the accounts if the identity of the customer continues to be unverified; and

(E) Steps the IaaS provider will take to ensure that foreign persons who failed to verify their identities do not reestablish new accounts; and

(3) An attestation that the written CIP of the IaaS provider meets the standards enumerated in § 7.302.

(b) *Annual certification.* U.S. IaaS providers must submit to the Department certifications of their CIPs on an annual basis and, if relevant, the CIPs of each foreign reseller of its U.S. IaaS products. Annual certifications may be submitted to the Department at any time within one year of their previous notification, but no earlier than 60 calendar days prior to that date. Annual certifications must include any updates to the information required in paragraph (a) of this section. Each annual certification must also include attestations that the IaaS provider has:

(1) Reviewed its CIP since the date of the last certification;

(2) Updated its CIP to account for any changes in its service offerings since its last certification;

(3) Updated its CIP to account for any changes in the threat landscape since its last certification;

(4) Ensured its CIP complies with this subpart since its last certification;

(5) Tracked the number of times the IaaS provider was unable to verify the identity of any customer since its last certification; and

(6) Recorded the resolution of each situation in which the IaaS provider was unable to verify the identity of a customer since its last certification.

(c) *Irregular updates.* Each U.S. IaaS provider must notify the Department if, outside of the normal reporting schedule described in paragraphs (a) and (b) of this section, a significant change in business operations or corporate structure has occurred or a material change to a CIP has been implemented, to include, for example, a material change in the documentary or non-documentary methods of identity verification or in the procedures for handling unverified accounts. Each U.S. IaaS provider must also notify the

Department when there is a change in the Primary Contact responsible for the CIP, or when there is a change in the Primary Contact responsible for managing the CIP of one of its foreign resellers.

(d) *New providers.* Prior to furnishing any foreign customer with an IaaS Account, any newly established U.S. IaaS provider must notify the Department of implementation of their CIP through submission of their CIP certification form in accordance with the requirements in paragraphs (a) through (c) of this section. U.S. IaaS providers must notify the Department according to procedures described in paragraphs (e) and (f) of this section prior to the provision of U.S. IaaS products to a new foreign reseller of its U.S. IaaS products.

(e) *Collection of information from foreign resellers.* Each U.S. IaaS provider of U.S. IaaS products must collect from its foreign resellers the information necessary for the initial and annual reporting requirements in paragraphs (a) and (b) of this section.

(f) *Reporting of information from foreign resellers.* Each U.S. IaaS provider of U.S. IaaS products must submit on an annual basis CIP certification forms for all foreign resellers' CIPs, containing the information specified in paragraph (a) of this section. Foreign reseller certifications may be submitted by the U.S. IaaS provider—in compiled format—to the Department at any time within one year of their previous notification, and no earlier than 60 calendar days prior to that date.

§ 7.305 Compliance assessments.

(a) *Government inspection.* All U.S. IaaS providers of U.S. IaaS products must maintain a written CIP and copies of the CIPs of any of their foreign resellers and must provide any copy of these CIPs to the Department within ten calendar days of a request from the Department. If upon inspection the Department finds a CIP from either a U.S. IaaS provider or their foreign reseller fails to meet the requirements in § 7.302(b) through (f), then the Department will notify the relevant IaaS provider of the specific shortcomings identified in its CIP or, if necessary, any required special measures as described in § 7.307. The IaaS provider shall then resolve the identified shortcomings within a reasonable time period, as determined by the Department, and shall resubmit its CIP for further inspection.

(b) *In general.* The Department will review information submitted to the Department in CIP certification forms and compiled foreign reseller CIP certification forms as described in § 7.304. The Department shall, at its sole discretion as to time and manner, conduct compliance assessments of U.S. IaaS providers based on the Department's own evaluation of risks associated with a given CIP, U.S. IaaS provider, or any of its foreign resellers.

(c) *Information available.* The Department will evaluate risk and conduct compliance assessments based on available information, including but not limited to:

(1) Any information provided by U.S. IaaS provider in CIP certifications;

(2) Any additional information or communications provided to the Department;

(3) Any publicly available information or communications; and

(4) Any information otherwise obtained by or made available to the Department.

(d) *Evaluating risk.* The Department shall maintain sole discretion to evaluate risks based on criteria including, but not limited to:

(1) Assessing whether the services or products of a U.S. IaaS provider or a foreign reseller are being used or are likely to be used:

(i) By foreign malicious cyber actors; or

(ii) By a foreign person to train a large AI model with potential capabilities that could be used in malicious cyber-enabled activity; or

(2) The failure of any U.S. IaaS provider of U.S. IaaS products to:

(i) Submit a CIP certification; or

(ii) Implement measures recommended by the Department as the result of a compliance assessment.

(e) *Compliance assessments.* The Department shall conduct compliance assessments of certain U.S. IaaS providers according to the Department's evaluation of risk based on information described in paragraph (b) of this section. The Department may:

(1) Conduct compliance assessments annually or as determined by the Department based on the Department's evaluation of risk of the provider's CIP;

(2) Conduct follow-up compliance assessments of providers to ensure remediation of any findings or determinations made by the Department; and

(3) Request an audit of the U.S. IaaS provider's CIP processes and procedures.

(f) *Actions.* Based on the results of compliance assessments, the Department may:

(1) Recommend remediation measures to be taken by the U.S. IaaS providers of U.S. IaaS products, including but not limited to:

(i) Measures to address any risk of U.S. IaaS products being used in support of malicious cyber activity or to train a foreign-owned large AI model with potential capabilities that could be used in malicious cyber-enabled activity; and

(ii) Any special measures the IaaS provider must take in accordance with § 7.307; and

(2) Determine to review a transaction or class of transactions of an IaaS provider according to procedures described in subpart B of this part.

§ 7.306 Customer Identification Program exemptions.

(a) *Exemptions.* The Secretary, in accordance with such standards and procedures as outlined in this section, may exempt any U.S. IaaS provider, any specific type of Account or lessee, or any specific foreign reseller of a U.S. IaaS provider's IaaS products, from the requirements of this subpart, except §§ 7.308 and 7.309. Such standards and procedures will include a finding by the Secretary that a U.S. IaaS provider, U.S. IaaS provider's foreign reseller, Account, or lessee implements security best practices to otherwise deter abuse of IaaS products.

(b) *Abuse of IaaS Products Deterrence Program for IaaS providers.* The Secretary may make a finding that an IaaS provider complies with security best practices to deter abuse of IaaS products, provided that the IaaS provider has established an Abuse of IaaS Products Deterrence Program (ADP) consistent with this paragraph (b) and has requested a finding in accordance with the procedures in paragraph (e) of this section. Such a finding exempts an IaaS provider from the CIP requirements in §§ 7.302 and 7.304. The Secretary may also make a finding that a foreign reseller of U.S. IaaS products complies with security best practices to deter abuse of IaaS products. Such a finding exempts the U.S. IaaS provider from the requirements in §§ 7.303 and 7.304 with regard to that specific foreign reseller. Each IaaS provider that offers or maintains one or more Accounts may develop, document, and implement an ADP that is designed to detect, prevent, and mitigate malicious cyber-enabled activities in connection with their Accounts and the IaaS Accounts of its foreign resellers. The ADP must be appropriate to the size and complexity of the IaaS provider and the nature and scope of its product offerings. A U.S. IaaS provider or foreign reseller ADP must include reasonable policies and procedures to:

(1) Identify relevant Red Flags for the Accounts that the IaaS provider offers or

maintains, and incorporate those Red Flags into its ADP including considering:

(i) Risk Factors such as:

(A) The types of Accounts it offers or maintains;

(B) The methods it implements for an Account to be opened;

(C) The methods it implements for an Account to be accessed;

(D) The methods it implements to monitor and assess activities related to its Accounts; or

(E) Its current or previous experiences with malicious cyber-enabled activities.

(ii) Sources of Red Flags such as:

(A) Incidents of malicious cyber-enabled activities that IaaS providers have experienced;

(B) Vulnerabilities that could contribute to malicious cyber-enabled activities if left unmitigated;

(C) Methods of malicious cyber-enabled activities that IaaS providers have identified; or

(D) Alerts, notifications, or other warnings about malicious cyber-enabled activities or improved analytic tools that the IaaS provider receives, including through engagement with the consortium under paragraph (c) of this section.

(iii) Categories of Red Flags such as:

(A) Presentation of suspicious personally identifiable information or identity evidence;

(B) Suspicious or anomalous activity detected in relation to an Account; or

(C) Notice from customers, victims of identity theft, law enforcement authorities, or other persons regarding possible fraud or abuse conducted in association with the Account, Account compromise, a newly identified vulnerability that may impact an IaaS product offering if exploited, or identity theft in connection with Accounts serviced by the IaaS provider.

(2) Detect Red Flags that have been incorporated into the ADP, including by implementing privacy-preserving data sharing and analytics methods as feasible.

(3) Respond appropriately to any Red Flags that are detected to prevent and mitigate malicious cyber-enabled activities, which may include:

(i) Monitoring an Account for evidence of malicious cyber-enabled activities;

(ii) Contacting the customer;

(iii) Changing any passwords, security codes, or other security devices that permit access to an Account;

(iv) Reopening an Account with a new account number;

(v) Rejecting a request to open a new Account;

(vi) Closing or suspending an existing Account;

(vii) Allowing only certain trusted methods of payment;

(viii) Notifying law enforcement; or

(ix) Determining that no response or a different response is warranted under the particular circumstances.

(4) Ensure the ADP (including the relevant Red Flags) is updated regularly to reflect changes in risks to Accounts, including factors such as:

(i) The experiences of the IaaS provider with malicious cyber-enabled activities;

(ii) Changes in methods of malicious cyber-enabled activities;

(iii) Changes in methods to detect, prevent, and mitigate malicious cyber-enabled activities;

(iv) Changes in the types of accounts that the IaaS provider offers or maintains; and

(v) Changes in the business arrangements of the IaaS provider including mergers, acquisitions, alliances, joint ventures, and service provider or foreign reseller arrangements.

(5) Establish procedures for the ongoing administration of the ADP. Each IaaS provider implementing an ADP must provide for the continued administration of the ADP and must:

(i) Obtain approval of the initial written ADP from either its board of directors, an appropriate committee of the board of directors, or a designated employee at the level of senior management;

(ii) Involve the board of directors, an appropriate committee thereof, or a designated employee at the level of senior management in the oversight, development, implementation, and administration of the ADP;

(iii) Train staff, as necessary, to effectively implement the ADP; and

(iv) Exercise appropriate and effective oversight of reseller arrangements with respect to detecting and mitigating Red Flags.

(c) *Public-private sector collaboration.* One factor to be considered by the Department in granting an exemption is the participation of U.S. IaaS providers or a foreign reseller of U.S. IaaS products in a consortium to develop and maintain privacy-preserving data sharing and analytics to enable improved detection and mitigation of malicious cyber-enabled activities. Before implementing privacy-preserving data sharing and analytics, IaaS providers may initially evaluate solutions in a test environment which may be established and maintained by either industry or the Federal Government. The consortium will make available tools and expertise to assist smaller IaaS providers with conducting privacy-preserving data sharing and analytics, as well as providing insights, policies, and practices for improving their ADPs under paragraph (a) of this section. IaaS providers must document their process and capabilities for integrating insights and responding to intelligence generated through consortium interaction within their ADP as described in paragraph (a) of this section.

(d) *Investigative cooperation.* One factor to be considered by the Department in granting an exemption is voluntary cooperation with law enforcement, consistent with otherwise applicable law, to provide forensic information for investigations of identified malicious cyber-enabled activities.

(e) *Procedures for requests for exemptions from CIP requirements.* In consultation with the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, and the Director of National Intelligence, or, as the Secretary deems appropriate, the heads of other executive departments and agencies, the Secretary may make a finding exempting a U.S. IaaS provider from the requirements in §§ 7.302, 7.304, and 7.305 if the finding determines that the U.S. IaaS provider complies with security best practices to otherwise deter the abuse of IaaS products. In consultation with these same agencies, the Secretary may also make a finding to exempt a U.S. IaaS provider with respect to any specific foreign reseller of their services from the requirements in §§ 7.303 and 7.304, if the finding determines that the foreign reseller, account, or lessee complies with security best practices to otherwise deter abuse of United States IaaS products.

(1) Any U.S. IaaS provider of U.S. IaaS products seeking to obtain the Secretary's finding exempting it or one of its foreign resellers from CIP requirements shall initiate the process by providing a written submission to the Secretary describing its establishment of an ADP consistent with paragraph (a) of this section. Such submission should be made electronically.

(2) Upon receipt of a written submission, the Secretary will review the submission and may request additional information from the submitter. Prior to making a finding, the Secretary will consult with the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, and the Director of National Intelligence, or their designees.

(3) The Secretary will make a finding based on an evaluation of the following factors:

(i) Whether the ADP is an appropriate size and complexity commensurate with the nature and scope of product offerings;

(ii) Whether the Program's ability to deter, detect, and respond to Red Flags is sufficiently robust;

(iii) Whether oversight of reseller arrangements is effective;

(iv) The extent of cooperation by providers with law enforcement, consistent with otherwise applicable law, to provide forensic information for investigations of identified malicious cyber-enabled activities; and

(v) Whether they participate in public-private collaborative efforts as described in paragraph (c) of this section.

(f) *Maintenance of exemption.* U.S. IaaS providers of U.S. IaaS products have a continuing obligation to update their ADPs in response to the changing threat landscape and must notify the Secretary of any significant deviations or changes to their ADP. U.S. IaaS providers must also require their foreign resellers to do the same. All U.S. IaaS providers must provide information on such updates by submitting annual notifications for themselves or any of their exempt foreign resellers to the Department to ensure that exemptions from the CIP requirements continue to be warranted.

(g) *Revocation of exemption.* The exemption from CIP requirements may be revoked at any time, including to impose special measures as described in § 7.307.

§ 7.307 Special measures for certain foreign jurisdictions or foreign persons.

(a) *International counter-malicious cyber-enabled activity requirements*—(1) *In general.* The Secretary may require U.S. IaaS providers of U.S. IaaS products to take either of the special measures described in paragraph (b) of this section if the Secretary determines that reasonable grounds exist for concluding that a foreign jurisdiction or foreign person is conducting malicious cyber-enabled activities using U.S. IaaS products, in accordance with paragraph (c) of this section.

(2) *Evaluation.* If the Secretary, based on the Secretary's own initiative or upon referral from other executive departments and agencies or U.S. IaaS providers, is informed that reasonable grounds may exist to apply special measures to a particular foreign jurisdiction or foreign person, the Secretary will evaluate the relevant factors provided in paragraph (b) of this section and consult with the heads of other agencies as appropriate, to determine whether to impose either of the special measures described in paragraph (b), and which special measure the Secretary will impose.

(3) *Determination.* Upon completion of the evaluation, the Secretary shall issue an unclassified written determination that summarizes the elements of the evaluation. The determination shall identify whether the Secretary established, through the investigation, that reasonable grounds exist to determine that:

(i) A foreign jurisdiction has any significant number of foreign persons offering U.S. IaaS products that are used for malicious cyber-enabled activities or any significant number of foreign persons directly obtaining U.S. IaaS products for use in malicious cyber-enabled activities; or

(ii) A foreign person has established a pattern of conduct of offering U.S. IaaS products that are used for malicious cyber-enabled activities or directly obtaining U.S. IaaS products for use in malicious cyber-enabled activities.

(4) *Special measure.* The determination shall also explain how it is consistent with the terms of Executive Order 13984 and this subpart. The special measure will be imposed as soon as the Secretary issues the determination.

(5) *Duration of special measure.* Any determination by which a special measure described in paragraphs (b)(1) and (2) of this section is imposed may not remain in effect for more than 365 calendar days, except pursuant to the publication in the **Federal Register**, on or before the end of the 365-day period beginning on the date of the issuance of such determination, of a notice of extension finding that the measure remains necessary for an additional period of time.

(6) *Effective date.* No U.S. IaaS providers shall be required to take any of the special measures adopted pursuant to this section earlier than 180 calendar days following the issuance of determinations.

(7) *No limitation on other authorities.* This section shall not be construed as superseding or otherwise restricting any other authorities granted to the Secretary, or to any other agency, by this subpart or otherwise.

(b) *Special measures.* The special measures referred to in paragraph (a) of this section, with respect to a foreign jurisdiction or foreign person, are as follows:

(1) *Prohibitions or conditions on customers, potential customers, or accounts within certain foreign jurisdictions.* The Secretary may prohibit or impose conditions on the opening or maintaining with any U.S. IaaS provider of an Account, including a Reseller Account, by any foreign person located in a foreign jurisdiction found to have any significant number of foreign persons offering U.S. IaaS products used for malicious cyber-enabled activities, or by any U.S. IaaS provider of U.S. IaaS products for or on behalf of a foreign person.

(2) *Prohibitions or conditions on certain foreign persons.* The Secretary may prohibit or impose conditions on the opening or maintaining of an Account, including a Reseller Account, by any U.S. IaaS provider of U.S. IaaS products for or on behalf of a foreign person, if such an Account involves any such foreign person found to be directly obtaining or engaged in a pattern of conduct of obtaining U.S. IaaS products for use in malicious cyber-enabled activities or offering U.S. IaaS products used in malicious cyber-enabled activities.

(3) *Reasonable grounds determination factors.* In making a determination described in paragraph (a) of this section, the Secretary shall consider, in addition to any and all such information as the Secretary determines to be relevant, the following potentially relevant factors:

(i) *Factors related to a particular foreign jurisdiction.* (A) Evidence that foreign malicious cyber actors have obtained U.S. IaaS products from persons offering U.S. IaaS products in that foreign jurisdiction, including whether such actors obtained such U.S. IaaS products through foreign resellers;

(B) The extent to which that foreign jurisdiction is a source of malicious cyber-enabled activities; and

(C) Whether the United States has a mutual legal assistance treaty with that foreign jurisdiction, and the experience of law enforcement officials and regulatory officials in obtaining information about activities involving U.S. IaaS products originating in or routed through such foreign jurisdiction.

(ii) *Factors related to a particular foreign person.* (A) The extent to which a foreign person uses U.S. IaaS products to conduct, facilitate, or promote malicious cyber-enabled activities;

(B) The extent to which U.S. IaaS products offered by a foreign person are used to facilitate or promote malicious cyber-enabled activities;

(C) The extent to which U.S. IaaS products offered by a foreign person are used for legitimate business purposes in the foreign jurisdiction; and

(D) The extent to which actions short of the imposition of special measures pursuant to this paragraph (b) are sufficient, with respect to transactions

involving the foreign person offering U.S. IaaS products, to guard against malicious cyber-enabled activities.

(4) *Special measure determination factors.* In selecting which special measure(s) to take under this section, the Secretary shall consider:

(i) Whether the imposition of any special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for U.S. IaaS providers;

(ii) The extent to which the imposition of any special measure(s) or the timing of any special measure(s) would have a significant adverse effect on legitimate business activities involving the particular foreign jurisdiction or foreign person; and

(iii) The effect of any special measure(s) on United States national security, law enforcement investigations, U.S. supply chains, foreign policy, or any serious effect on U.S. public health or safety.

(c) *Consultations and information to be considered in finding foreign jurisdictions or foreign persons to be of primary malicious cyber-enabled activity concern.* In general, in making a determination described in paragraph (a) of this section, the Secretary shall consult with the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and, as the Secretary deems appropriate, the heads of other executive departments and agencies.

(d) *Notification of special measures invoked by the Secretary.* Not later than 10 calendar days after the date of any determination under paragraph (a)(4) of this section, the Secretary shall notify, in writing, the Committee on Energy and Commerce of the U.S. House of Representatives and the Committee on Commerce, Science, and Transportation of the U.S. Senate of any such action.

§ 7.308 Reporting of large AI model training.

(a) *Reporting requirements.* (1) In general, each U.S. IaaS provider must submit a report to the Department whenever they have ''knowledge'' of a covered transaction, as specified in paragraph (b) of this section, at the time specified in paragraph (c) of this section.

(2) Each U.S. IaaS provider must also require that their foreign resellers submit a report whenever they have ''knowledge'' of a covered transaction, as specified in paragraph (b) of this section, at the time specified in paragraph (c) of this section to the U.S. IaaS provider.

(3) Reports must be submitted to the Department in the form and manner specified in paragraph (d) of this section and, at a minimum, include responses for each of the requirements of paragraphs (d)(1)(i) through (ii) of this section.

(b) *Covered transactions.* (1) Transactions that are covered transactions for the purposes of this section include:

(i) A transaction by, for, or on behalf of a foreign person which results or could result in the training of a large AI model with potential capabilities that could be used in malicious cyber-enabled activity (see the examples in paragraphs (b)(3)(i) and (ii) of this section); or

(ii) A transaction by, for, or on behalf of a foreign person, in which the original arrangements provided for in the terms of the transaction would not result in a training of a large AI model with potential capabilities that could be used in malicious cyber-enabled activity, but a development or update in the arrangements means the transaction now does or could result in the training of a large AI model with potential capabilities that could be used in malicious cyber-enabled activity (see the example in paragraph (b)(3)(iii) of this section).

(2) A model shall be considered to be a large AI model with potential capabilities that could be used in malicious cyber-enabled activity under the definition provided in § 7.301 if it meets the requirements laid out by the Department in interpretive rules published in the **Federal Register**.

(3)(i) *Example 1.* Corporation A, a foreign person, proposes to train a model on the computing infrastructure of Corporation B, a U.S. IaaS provider, and signs an agreement with Corporation B to train the proposed model. The technical specifications of the model that Corporation A seeks to train meet the technical conditions of a large AI model with potential capabilities that could be used in malicious cyber-enabled activity. The transaction is a covered transaction.

(ii) *Example 2.* Corporation A, a U.S. person, makes an equity investment in Corporation B, a foreign person, and a portion of that investment is in the form of credits to use Corporation A's computing infrastructure. Corporation A has reason to believe that Corporation B intends to use those credits to train a large AI model with potential capabilities that could be used in malicious cyber-enabled activity. The transaction is a covered transaction.

(iii) *Example 3.* Corporation A, a U.S. person, agrees to train an AI model for Corporation B, a foreign person. At the outset, the agreed-upon technical specifications for the model do not meet the technical conditions of a dual-use foundation model or a model with technical conditions of concern. However, after training commences, adjustments in the training procedure or new insights about the model's capabilities provide Corporation A with reason to believe that the model will in fact have the technical conditions of a large AI model with potential capabilities that could be used in malicious cyber-enabled activity. The transaction becomes a covered transaction.

(iv) *Example 4.* Corporation A, a U.S. person, agrees to train an AI model for Corporation B, a foreign person, on a computing infrastructure co-located in a facility owned by Corporation C. The model will have the technical conditions of a large AI model with potential capabilities that could be used in malicious cyber-enabled activity. The transaction is a covered transaction, and Corporation A is responsible for reporting the training run to the Department.

(c) *Timing of reports*—(1) *Initial U.S. IaaS provider report.* U.S. IaaS providers shall file with the Department a report within 15 calendar days of a covered transaction occurring or the provider or reseller having ''knowledge'' that a covered transaction has occurred.

(2) *Initial foreign reseller report.* U.S. IaaS providers must require their foreign resellers to file with the U.S. IaaS provider a report within 15 calendar days of a covered transaction occurring or the provider or reseller having ''knowledge'' that a covered transaction has occurred. The U.S. IaaS provider must file this report with the Department within 30 calendar days of the covered transaction.

(3) *Follow-up report.* Any U.S. IaaS provider that receives a request from the Department for additional information, as outlined in paragraph (d) of this section, whether in regard to a covered transaction of itself or its foreign reseller, will file a follow-up report responsive to the request within 15 calendar days of receiving the request for additional information.

(4) *Corrected report.* If any report filed under this section is found to have been inaccurate when filed, the U.S. IaaS provider shall file a corrected report in the form and manner specified in paragraph (d) of this section within 15 calendar dates after the date on which the U.S. IaaS provider has ''knowledge'' of the inaccuracy.

(d) *Content, form, and manner of reports.* Each report submitted under this section shall be filed with the Department in the form and manner that the Department shall prescribe in the forms and instructions for such report, and each person filing such report shall certify that the report or application is true, correct, and complete.

(1) *Initial U.S. IaaS provider and foreign reseller report.* An initial report of an IaaS provider shall include the following:

(i) *Information about the foreign person.* (A) Name of the foreign customer or foreign beneficial owner of the customer, which shall be:

(*1*) For an individual, full legal name; or

(*2*) For an entity, business name, including all names under which the business is known to be or has been doing business.

(*3*) For both individuals and entities, the ultimate beneficial owner, if it is not the same as the individual or entity.

(B) Address, which shall be:

(*1*) For an individual, a residential or business street address.

(*2*) For an individual who does not have a residential or business street address, an Army Post Office (APO) or Fleet Post Office (FPO) box number.

(*3*) For an entity, principal places of business, or if an entity is not a business, the address to which inquiries should be directed, and the location(s) from which the training request originates.

(*4*) For a person other than an individual (such as a corporation, partnership, or trust), the jurisdiction under whose laws the person is constituted or organized; and

(*5*) For a person other than an individual (such as a corporation, partnership, or trust), the name(s) of the beneficial owner(s) of that account, including the ultimate beneficial owner(s).

(C) Means and source of payment for the account including:

(*1*) Credit card number;

(*2*) Account number;

(*3*) Customer identifier;

(*4*) Transaction identifier;

(*5*) Virtual currency wallet or wallet address identifier;

(*6*) Equivalent payment processing information, for alternative sources of payment; or

(*7*) Any other payment sources or types used.

(D) Email address.

(E) Telephonic contact information.

(F) IP addresses used for access or administration and the date and time of each such access or administrative action, related to ongoing verification of such foreign person's ownership or control of such Account.

(ii) *Information about the training run.* (A) Estimated number of computational operations (*e.g.,* integer operations or floating-point operations) used in the training run.

(B) Anticipated start date and completion date of the training run.

(C) Information on training practices, including the model of the primary AI used in the training run accelerators.

(D) Information on cybersecurity practices including:

(*1*) Policies and procedures for ensuring secure storage of, and protecting access to, trained model weights; and

(*2*) Any cybersecurity or insider threat events that have occurred in the last four years that have resulted in unauthorized access to model weights or model source code, or other damages of major concern.

(2) *Follow-up report.* A follow-up report filed pursuant to a request for additional information in paragraph (c) of this section shall include all information responsive to the request.

(3) *Corrected report.* A corrected report required to be filed pursuant to paragraph (c) of this section shall correct all inaccuracies in the information previously reported to BIS.

(e) *Request for additional information.* Upon receiving an initial report, follow-up report, or corrected report, BIS may request that a U.S. IaaS provider or foreign reseller of U.S. IaaS products submit additional information pertaining to activities or risks that present concerns to U.S. national security.

(f) *Prohibition.* No U.S. IaaS provider shall provide U.S. IaaS products to foreign resellers, unless the U.S. IaaS provider has made all reasonable efforts to ensure that the foreign reseller complies with the requirements of this section. Upon receipt of evidence, or upon discovery of facts and circumstances that indicate that a foreign reseller has not complied with the requirements of this section, the U.S. IaaS provider shall notify the foreign reseller of the alleged violation and request written confirmation and supporting evidence of compliance, remediation, or both. Upon subsequent receipt of evidence, or discovery of facts and circumstances that indicate the foreign reseller did not remediate, or remains out of compliance, the U.S. IaaS provider must suspend the provision of U.S. IaaS products to the foreign reseller, and shall resume provision of U.S. IaaS products only after the foreign reseller has provided adequate assurances to prevent future violations.

§ 7.309 Enforcement.

(a) *Prohibitions.* The following are prohibited:

(1) Engaging in, or conspiring to engage in, any conduct prohibited by the regulations issued in this part.

(2) Failing to submit reports, certifications, or recertifications, as appropriate, or failing to comply with terms of notices or orders provided by the Department, and as required by this subpart.

(3) Failing to implement or maintain CIPs as required by § 7.302, or continuing to transact with a foreign reseller that fails to implement or maintain a CIP as set forth in § 7.303.

(4) Providing IaaS products to a foreign person while failing to comply with any direction, determination, or condition issued under this part.

(5) Aiding, abetting, counseling, commanding, inducing, procuring, permitting, approving, or otherwise supporting any act prohibited by any direction, determination, or condition issued under this part.

(6) Attempting or soliciting a violation of any direction, determination, or condition issued under this part.

(7) Failing to implement any prohibition or suspension as set forth in § 7.308.

(8) Making a false or misleading representation, statement, notification, or certification, whether directly or indirectly through any other person, or falsifying or concealing any material fact to the Department in connection with compliance under this part.

(b) *Additional obligations.* (1) Any person who makes a representation, statement, or certification to the Department relating to the creation or maintenance of a CIP, reporting required under the CIP, in a written request for an exemption, an annual notification related to exemptions, or in relation to their own or another entities ADP shall notify the Department of any material change to the CIP or to the IaaS provider's business, that renders the CIP unnecessary.

(2) Any person who has been granted, or has had a foreign reseller granted, an exemption on the basis of their ADP shall notify the Department of any material change to the ADP or to the IaaS provider's business that may impact the ADP.

(3) For purposes of paragraph (a)(8) of this section, any representation, statement, or certification, such as (though not limited to) CIPs, written request for exemption, or written statements on ADPs made by any person shall be deemed to be continuing in effect until the person notifies the

Department in accordance with this part.

(c) *Maximum penalties*—(1) *Civil penalty.* A civil penalty not to exceed the amount set forth in section 206 of IEEPA, 50 U.S.C. 1705, may be imposed on any person who violates, attempts to violate, conspires to violate, or knowingly causes any violation of paragraph (a) of this section. IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 per violation, subject to inflationary adjustment, or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(i) Notice of the penalty, including a written explanation of the penalized conduct specifying the laws and regulations allegedly violated and the amount of the proposed penalty, and notifying the recipient of a right to make a written petition within 30 calendar days as to why a penalty should not be imposed, shall be served on the notified party or parties.

(ii) The Secretary shall review any presentation and issue a final administrative decision within 30 calendar days of receipt of the petition.

(2) *Criminal penalty.* A person who willfully commits, attempts to commit, or conspires to commit, or aids and abets in the commission of a violation of paragraph (a) of this section shall, upon conviction of a violation of IEEPA, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(3) *Civil penalty recovery.* Any civil penalties authorized in this section may be recovered in a civil action brought by the United States in U.S. district court.

(d) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(e) *Other penalities.* The penalties available under this section are without prejudice to other penalties, civil or criminal, available under law. Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency in the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

§ 7.310 Reporting violations.

(a) *Where to report.* If a person learns of facts or circumstances that indicate a violation of any of the requirements in this subpart may have occurred, or are likely to occur, that person may notify: Office of Information and Communications Technology and Services, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Room A–100, Washington, DC 20230.

(b) *Reporting distinguished.* The reporting provisions in paragraph (a) of this section are not the ''reporting of violations'' contained within the Export Administration Regulations (EAR) in 15 CFR chapter VII, subchapter C, nor the ''voluntary self-disclosure'' within the same.

Alan F. Estevez,

Under Secretary of Commerce for Industry and Security, U.S. Department of Commerce.

[FR Doc. 2024–01580 Filed 1–26–24; 8:45 am]

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